

# **ZONING ORDINANCE**

**No. 26.89**

**Village of Lake Orion, Oakland County, Michigan**

Effective January 1, 2011

Amendments through 2022

**Recommended by the Planning Commission: August 2, 2010**

**Approved by Village Council: November 22, 2010**

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## Village of Lake Orion, Michigan

# ZONING ORDINANCE

### Title

AN ORDINANCE to regulate and restrict the use of land and buildings by dividing the Village of Lake Orion into districts; defining certain terms used therein; imposing regulations, prohibitions and restrictions governing the erection, construction, reconstruction of structures and buildings and lands to be used for business, residence, social, and other specific purposes; regulating and limiting the height and bulk of buildings and other open spaces, regulating and limiting the density of population; limiting congestion upon the public streets by providing for off-street parking and loading of vehicles; providing for the gradual elimination of non-conforming uses of land, buildings, and structures; establishing the boundaries of districts; creating a Board of Zoning Appeals, defining and limiting the powers and duties of said Board, and setting standards to guide actions of said Board providing the means of enforcing said Ordinance and providing a penalty for violation of said Ordinance.

### Preamble

In accordance with the Michigan Zoning Enabling Act, Act 110, of the Public Acts of 2006, as amended, the Village of Lake Orion desires to regulate and restrict the use of land and structures; to meet the needs of the State's citizens for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to ensure that use of the land is situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements; and to promote public health, safety, and welfare, and for those purposes divides the Village into districts of the number, shape, and area considered best suited to carry out these objectives. For each of those districts, regulations are imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designates the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations.

This Ordinance is enacted pursuant to P.A. 110 of 2006, as amended, (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq) hereinafter referred to as the "Zoning Act".

### Enacting Clause

**The Village of Lake Orion, County of Oakland, State of Michigan Ordains:**

# Article 1.

## Short Title

### **Section 1.01      Short Title**

This Ordinance shall be known as the Zoning Ordinance of the Village of Lake Orion.

# Article 2.

## Definitions and Rules of Construction

### Section 2.01 RULES OF CONSTRUCTION

For the purposes of this Ordinance, certain words and tenses used herein shall be interpreted or defined as follows:

- A. The particular shall control the general.
- B. Words used in the present tense shall include the future.
- C. Words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.
- D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- E. The masculine gender includes the feminine and neuter.
- F. All measurements shall be to the nearest integer, unless otherwise specified herein.
- G. The phrase "used for" includes "arranged for", "designed for", "intended for", "occupied for", and "maintained for".
- H. The word "building" includes the word "structure". The word "build" includes the words "erect" and "construct". A "building" or "structure" includes any part thereof.
- I. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any similar entity.
- J. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as defined herein. Words or terms not herein defined shall have the meaning customarily assigned to them.
- K. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
  - 3. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singularly but not in combination.
- L. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustrations.
- M. Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.



## Section 2.02 DEFINITIONS

**ABUTTING.** Two or more buildings, lots or parcels having a common border, or being separated from such a common border by an easement.

**ACCESSORY BUILDING.** A subordinate building on the same zoning lot, or part of the principal building, occupied by or devoted exclusively to an accessory use. Examples of accessory buildings include: garages, storage sheds, gazebos, playhouses, and boat houses.

**ACCESSORY BUILDING, ATTACHED.** An accessory building that is physically joined to the principal building by a common wall, roof, rafter, or other structural component.

**ACCESSORY STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having such location, and that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related.

**ACCESSORY USE.** A use clearly incidental to, customarily found in connection with and located on the same zoning lot as the principal use to which it is related.

**ACCRETED LAND.** Land created by natural or human action, that is between the waters of a lake and the legally described or platted boundaries of a lot.

**ADULT FOSTER CARE FAMILY HOME.** See RESIDENTIAL CARE FACILITIES

**ADULT FOSTER CARE LARGE GROUP HOME.** See RESIDENTIAL CARE FACILITIES

**ADULT FOSTER CARE SMALL GROUP HOME.** See RESIDENTIAL CARE FACILITIES.

**ADULT REGULATED USES.** As used in this ordinance, the following definitions shall apply to adult regulated uses:

1. **Adult Entertainment Business.** Any one (1) or combination of more than one (1) of the following types of businesses: adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult personal service establishment, adult novelty business, or adult nightclub.
2. **Adult Book or Supply Store.** An establishment having as a principal activity the sale of books, magazines, newspapers, video tapes, video discs and motion picture films which are characterized by their emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse, or sodomy.
3. **Adult Motion Picture Theater.** An enclosed building having as a principal activity the display of motion pictures characterized by their emphasis on human genitals and pubic regions or acts of human masturbation, sexual intercourse, or sodomy for observation by patrons therein.
4. **Adult Mini-Motion Picture Theater.** An enclosed building having as a principal activity the presenting of material characterized by emphasis on portrayals of human genitals and pubic regions or acts of human masturbation, sexual intercourse or sodomy for observation by patrons therein in individual observation booths.
5. **Adult Novelty Business.** A business that has as a principal activity the sale of devices of simulated human genitals or devices designed for sexual stimulation.
6. **Adult Personal Service Business.** A business that has as a principal activity in which a person, while nude or partially nude, provides personal services for a person on an individual basis in a closed room. It includes, but is not limited to, the following activities and services: massage parlors (excluding therapeutic massage), exotic rubs, modeling studios, body painting studios, wrestling studios, and individual theatrical performances. It does not include activities performed by persons pursuant to, and in accordance with, licenses issued to such persons by the State of Michigan.
7. **Adult Night Club.** A business with the principal activity of providing entertainment by nude or partially nude performers.

8. **Principal Activity.** A use accounting for more than twenty (20) percent of a business' stock in trade, display space, floor space, live entertainment time or movie display time per year.

**ALLEY.** A dedicated public way that affords only a secondary means of access to abutting property and is not intended for general circulation.

**ANTENNA STRUCTURE.** An accessory structure incidental to the main use of the property, which is a radio or television receiving antenna, satellite dish antenna, digital satellite antenna, or amateur ham radio antenna located outside a building.

**APARTMENT.** See DWELLING, MULTIPLE FAMILY

**ASSESSED VALUE.** The value shown on the Village assessment roll as equalized through the process of State and County equalization, approximately equal to one-half of the true cash value of the property. The assessed value may or may not be equal to the taxable value. See also: TAXABLE VALUE.

**AUTOMOBILE GAS STATION.** A building or structure designed or used for the retail sale or supply of fuels and other operating commodities for motor vehicles. Automobile gas stations may include space for retail sales of items not related to motor vehicles but shall not include space for the repair or servicing of vehicles.

**AUTOMOBILE SERVICE STATION.** A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and including space and facilities for the installation of such commodities on or in such vehicles and minor repairs and servicing, excluding bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rust-proofing, or high speed washing, and may include space for facilities for the temporary storage of vehicles for less than forty-eight (48) hours.

**BANK.** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange.

**BAR.** An establishment designed and operated to facilitate the sale of alcoholic beverages for consumption on the premises where any sale and service of food and snacks is available as a secondary or accessory use in a less formal setting than a restaurant through the presence of features such as but not limited to billiards, darts, arcade or video games, the open display of liquor, a bar counter with stools, high-top, pub or similar styles of tables and chairs, television screens, live or other entertainment, dancing, or other activities or amenities consistent with a primary purpose as a social gathering place rather than a dining establishment.

**BASEMENT.** A portion of a building partly or wholly below the exterior finished grade level and so located that the average vertical distance from said grade level to the floor is greater than the average distance from said grade level to the ceiling of the basement (See illustration "Basement and Story").

A lower level shall not be considered a basement if at least one side is open by way of a door to the exterior, and is above the finished grade on that side of the building (i.e., Ground Story Walk-Out – See illustration "Ground Story Walk-out").

**BED AND BREAKFAST.** A dwelling in which sleeping rooms are provided or offered to transient guests as overnight accommodations, including provision for a morning meal for overnight guests only, in return for compensation. The bed and breakfast operation shall be subordinate to the single family use of the dwelling by the owner or primary renter of the premises. May also be known as a "tourist home."

**BENEFIT, RECOGNIZABLE AND SUBSTANTIAL.** A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation: long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

**BLOCK.** A tract of land bounded on all sides by streets, a railroad right-of-way, a waterway, unsubdivided acreage, or any other barrier to the continuity of development.

**BOARD OF ZONING APPEALS.** The words, “Board of Zoning Appeals” or “Board of Appeals” shall mean the Board of Zoning Appeals of the Village of Lake Orion.

**BOARDING HOUSE.** A dwelling where meals, or lodging and meals, are provided for compensation by pre-arrangement for definite periods. A boarding house is to be distinguished from a hotel, motel, bed and breakfast, convalescent home, or nursing home.

**BOAT HOIST.** An open structure used to lift boats out of the water or above the surface of the land, whether permanent or seasonal, with or without a roof, but open on all other sides.

**BOAT HOUSE.** An enclosed structure used for sheltering a boat, and constructed over the water or over an access channel to the water, but not including commercial boat shelters.

**BOAT LAUNCH.** A public or private facility used for the purpose of launching or loading watercraft and includes ramps that extend into an inland lake or stream, and may include roads and parking areas for vehicles and boat trailers.

**BOAT LIVERY.** A public or private facility where watercraft are rented or leased for use on a lake or stream.

**BUILDABLE AREA.** The area remaining on a lot or parcel after the minimum setback requirements of this Ordinance have been met.

**BUILDING.** Any structure having a roof, supported by columns or walls, intended and/or used for the shelter, housing or enclosure of persons, goods or property. When any portion thereof is completely separated from every other part by division walls from the ground up, and without openings, each portion shall be deemed a separate building. For the purposes of this Ordinance, any tent encompassing more than fifty (50) square feet in ground area shall be considered a building.

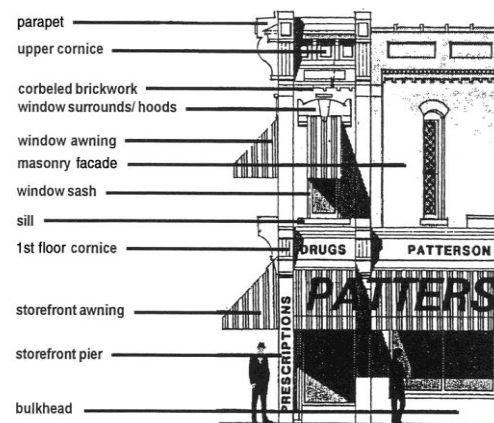
**BUILDING DESIGN ELEMENTS.** Features of a building that contribute to its architectural character, including:

1. **Awning.** A roof-like cover located at the top of the storefront and above windows meant to give shelter from the elements.
2. **Canopy.** A roof-like cover located at the top of the entry door meant to give shelter from the elements.
3. **Cornice.** A decorative horizontal projection between floors or at the top of a wall on the exterior of a building.
4. **Parapet.** That portion of the wall that extends above the roof (wall surrounding a flat roof).

**BUILDING ENVELOPE.** See BUILDABLE AREA

**BUILDING HEIGHT.** The vertical distance measured from the grade to:

1. the highest point of the roof surface of a flat roof;
2. the deck line of a mansard roof;
3. the average height between the eaves and the ridge for a gable, hip, studio (shed), or gambrel roof; or
4. seventy-five percent (75%) of the height of an A-frame.



Building Design Elements

Where a building is located on sloping terrain, the height shall be computed using the average grade measured at the building wall on all four sides (See Average Grade Computation illustration in this Section 2.02).

**BUILDING LINE.** A line formed by the face of the building extended to the side lot lines.

**BUILDING OFFICIAL.** The authorized representative(s) appointed by the Village to administer and enforce the provisions of the State Construction Code.

**BUILDING PERMIT.** The written authority issued by the Building Official or Zoning Administrator permitting the construction, removal, repair, moving, alterations or use of a building, structure or land in conformity with the provisions of this Ordinance.

**BUILDING, PRINCIPAL OR MAIN.** A building or, where the context so indicates, a group of buildings which are built, used, designed, or intended for the shelter or enclosure of the main or principal use of the lot.

**BUILDING SETBACK LINE.** See SETBACK

**BULK.** The term used to indicate the size and setbacks of buildings and structures and the location of same with respect to one another, including standards for the height and area of buildings; the location of exterior walls in relation to lot lines, streets, and other buildings; gross floor area of buildings in relation to lot area; open space; and, the amount of lot area required for a dwelling unit or building.

**CHILD CARE CENTER.** See RESIDENTIAL CARE FACILITIES

**CHURCH.** See PLACE OF WORSHIP

**CLERK.** The Clerk of the Village of Lake Orion.

**CLINIC, MEDICAL.** A use that provides medical, dental, or other human health diagnostic, therapeutic, or preventative services or treatment of ambulatory patients on an out-patient basis.

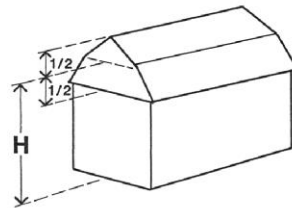
**CLINIC, VETERINARY.** A use that provides for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include fully enclosed pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

**COLLECTOR STREET.** See STREET

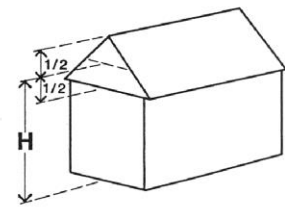
**COMMUNITY IMPACT STATEMENT.** An assessment of the developmental, ecological, social, economic and physical impacts of a project on the natural environment and physical improvements on and surrounding the development site.

**CONDOMINIUM.** A system of separate ownership of individual units and/or multi-unit projects according to Public Act 59 of 1978, as amended. For the purposes of this Ordinance, condominium terms shall be defined as follows:

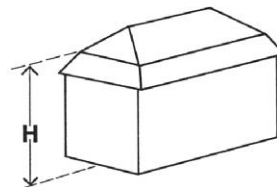
1. **Common Elements.** Portions of the condominium project other than the condominium units.



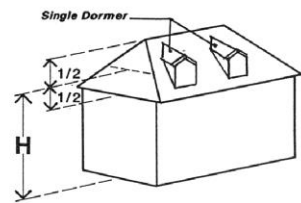
GAMBREL



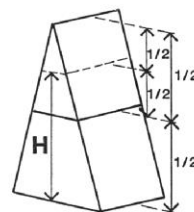
GABLE



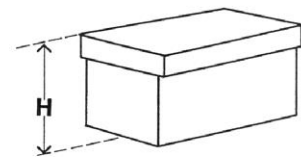
MANSARD



HIP



A-FRAME



FLAT

## Building Height

2. **Common Elements, General.** Common elements other than the limited common elements, intended for the common use of all co-owners.
3. **Common Elements, Limited.** Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.
4. **Condominium, Commercial.** A building, or group of buildings, used for office, business, professional services, research, and other commercial enterprises, owned and maintained as a condominium.
5. **Condominium Act.** Shall mean Public Act 59 of 1978, as amended.
6. **Condominium Lot.** That portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in this ordinance.
7. **Condominium Subdivision Plan.** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by the Condominium Act.
8. **Condominium Unit.** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project.
9. **Detached Condominium.** A condominium project of detached buildings designed to be similar in appearance to a conventional single family subdivision.
10. **Master Deed.** The condominium document recording the condominium project including attached exhibits and incorporating by reference the bylaws for the project and the condominium subdivision plan.
11. **Site Condominium Project.** A condominium project designed to function as an alternative to, but in a similar manner as a platted subdivision. A site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

**CONGREGATE HOUSING.** See HOUSING FOR THE ELDERLY

**CONSTRUCTION CODES.** The State of Michigan Stille-DeRossett-Hale Single State Construction Code Act, Act No. 230 of 1972, as amended, MCL 125.1501, et seq, and the individual construction/building codes adopted, administered and enforced under that Act.

**CONVALESCENT HOME.** See NURSING HOME

**CROSS ACCESS or SERVICE DRIVE.** A portion of land separate from the street right-of-way that is set aside to allow travel between two or more adjacent properties.

**DECK.** An improved surface or platform, commonly constructed of wood or recycled plastic, typically attached to or immediately adjacent to a house and typically used for outdoor leisure activities. See also PATIO.

**DEVELOPMENT.** The construction of a new building, reconstruction of an existing building, improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

**DISTRICT, ZONING.** See ZONING DISTRICT

**DRIVE-THROUGH ESTABLISHMENT.** A business establishment, other than a drive-in restaurant and/or a fast-food restaurant, so developed that its retail or service character is wholly or partially dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle.

**DRIVE-THROUGH RESTAURANT.** See RESTAURANT, DRIVE-THROUGH

**DUPLEX.** See DWELLING, TWO-FAMILY

**DWELLING.** Any building or portion thereof, which is designed or used for use and occupancy as a residence for living, cooking and sleeping residential purposes.

**DWELLING, MANUFACTURED.** A building or portion of a building designed for use as a dwelling and characterized by all of the following:

1. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
2. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
3. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

**DWELLING, MOBILE HOME.** A type of manufactured housing that is transportable in one (1) or more sections, that is built upon a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes plumbing, mechanical, and electrical systems contained in the structure. Recreation vehicles are described and regulated herein and shall not be considered “mobile homes” for the purposes of this Ordinance.

**DWELLING, MULTIPLE-FAMILY.** A building containing three (3) or more dwelling units. Multiple family dwelling units are units separated by shared walls, and contained in a building with other dwelling units. Multiple family buildings may have a central heating system and other central utility connections, however, each dwelling unit has separate housekeeping, cooking, and bathroom facilities.

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit designed for and occupied or held ready for use by one (1) family only, and conforming in all respects to the standards in Section 13.14.

**DWELLING, STACKED FLAT.** A building containing three (3) or more dwelling units where the dwelling units are divided by both shared walls and floor-ceiling assemblies in an appropriate manner for multiple-family uses. Each dwelling unit is capable of individual use and maintenance without trespassing upon adjoining properties, and utilities and service facilities are independent for each property.

**DWELLING, TWO-FAMILY.** A building containing not more than two (2) separate dwelling units designed for residential use.

**DWELLING, TOWNHOUSE.** A building containing three (3) or more dwelling units, in which each dwelling has its own front entrance and rear entrance, and no unit is located above another unit.

**DWELLING UNIT.** One or more rooms in a building, with bathroom and kitchen facilities, designed for use and occupancy as a self-contained and separate residence for living, cooking and sleeping residential purposes by one family.

**EFFICIENCY UNIT.** A dwelling unit consisting of one principal room, functioning as living, sleeping, and eating space with a bathroom and closet as accessory room.

**ENTERTAINMENT RESTAURANT.** See RESTAURANT, Entertainment

**ERECTED.** Includes built, constructed, assembled, reconstructed, moved upon, or any physical operations on the premises which are required for the construction. Excavations, fill, drainage, and the like shall be considered a part of erection.

**ESSENTIAL SERVICES.** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, transportation, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities, municipal departments, or commissions for the public health, safety or general welfare, but not including buildings other than buildings that are primarily enclosures or shelters of the above essential service equipment.

**FAMILY.** Either of the following:

1. **Domestic Family.** One or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling unit.
2. **Functional Equivalent of the Domestic Family.** One or more persons that are not a domestic family, domiciled and living together in a dwelling unit as a single, nonprofit unit, whose relationship is of a permanent and domestic character that is the functional equivalent of a domestic family. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the Zoning Administrator in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to six (6). Such presumption may be rebutted by application to the Planning Commission for a special land use based upon the applicable standards in this Ordinance.

**FAMILY CHILD CARE HOME.** See RESIDENTIAL CARE FACILITIES

**FAST FOOD RESTAURANT.** See RESTAURANT, FAST-FOOD

**FENCE.** An unroofed man-made structure designed or used as a physical, visual, sound or other barrier or separation. It may be made of wood, metal, stone, block, plastic or other material, if said other material is approved by the Planning Commission as being suitable for fencing purposes and not detrimental to adjoining property in the area. A fence may be ornamental or intended for or capable of enclosing a piece of land, preventing ingress and egress, dividing, bounding or simply marking a line.

**FILLING.** The depositing or dumping of any material on or into the ground, except deposits resulting from common household gardening.

**FINISHED GRADE.** See GRADE

**FLOOD PLAIN.** The area adjoining a river, stream, water course or lake subject to a one hundred (100) year recurrence-interval flood, as delineated by the Federal Insurance Administration of the Department of Housing and Urban Development "Flood Hazard Boundary" maps. The flood plain shall include the stream channel, the overbank area (the floodway), and the fringe areas of the floodway.

**FLOOR AREA, GROSS.** The sum of the gross horizontal areas of the floors within outside walls of a building including the basement, elevator shafts and stairwells at each story, floor space used for mechanical equipment, penthouse, half story, and mezzanine or interior balcony.

**FLOOR AREA, USABLE.** The floor area within the outside walls of a building exclusive of areas in cellars, basements, utility areas, elevator shafts and stairwells at each story, unfinished attics, garages, porches and accessory buildings. (See illustration "Floor Area")

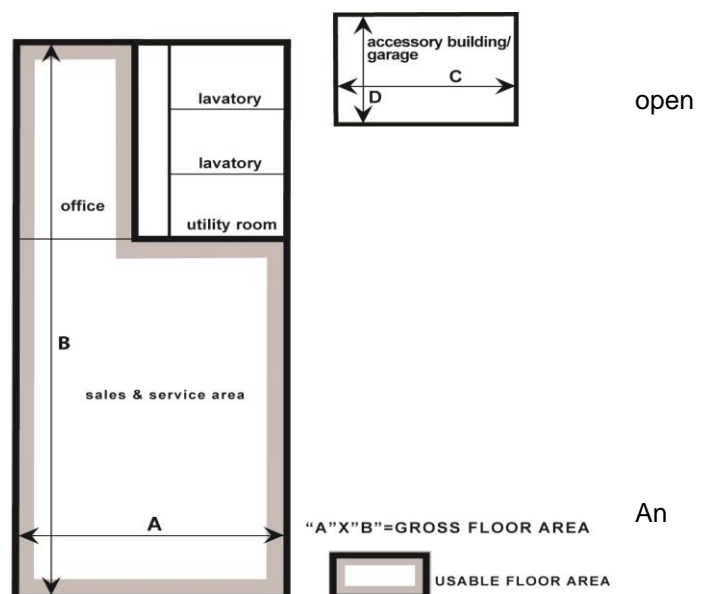
**FOSTER FAMILY HOME.** See RESIDENTIAL CARE FACILITIES

**FOSTER FAMILY GROUP HOME.** See RESIDENTIAL CARE FACILITIES

**FRONTAGE.** See LOT FRONTAGE

**FRONTAGE, BUILDING.** The length of an outside building wall fronting a public or private street.

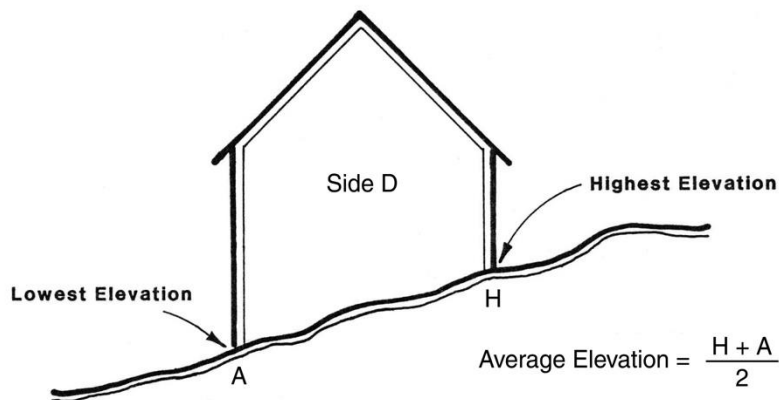
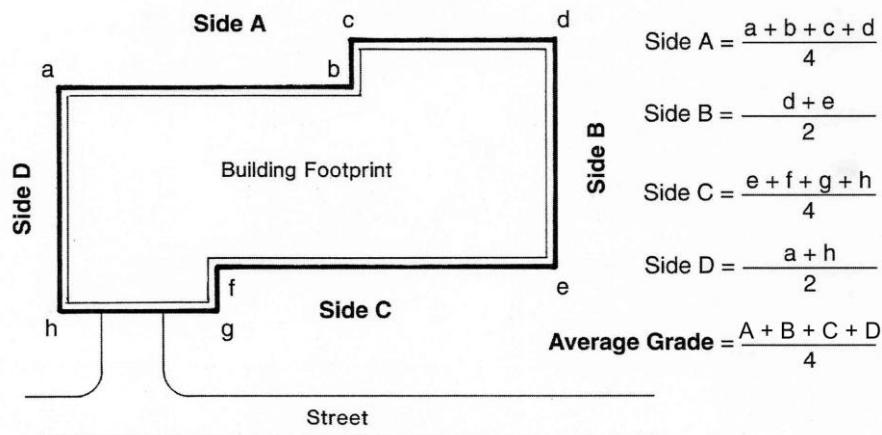
**FUNERAL HOME/MORTUARY ESTABLISHMENT.** establishment for the care and preparation for burial



and/or transportation of the bodies of deceased persons, and for funeral or memorial visitation hours or services, which may contain space and facilities for the display and storage of caskets, urns and other funeral supplies.

**GARAGE, PRIVATE.** An accessory building designed or used for the storage of motor vehicles, recreational vehicles, boats and similar equipment owned and used by the occupants of the building to which it is accessory.

**GRADE/AVERAGE GRADE.** The average level of the finished surface of the ground adjacent to the exterior walls of a building or exterior of a structure. The grade shall be determined by computing the average elevation of the ground at each exterior wall of the building or for a structure that is not a building, the average elevation of the ground at each exterior face, and taking the average of said total averages. (See illustrations “Average Grade Computation” and “Grade”)



## Grade



**GROSS ACRE/ACREAGE.** The total area of a lot within its property lines or other designated area to be measured under this Ordinance, without deduction for areas occupied by streets, natural features, open spaces or other designated features or improvements.

**GROUP CHILD CARE HOME.** See RESIDENTIAL CARE FACILITIES

**HOME OCCUPATION.** A lawful use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof, including giving instruction in a craft or fine art within the dwelling, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. Provided further, that no article or service is sold or offered for sale on the premises, except such as is produced by such occupation; that such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customary in residential areas. Clinics, hospitals, barber shops, beauty parlors, tea rooms, tourist homes, animal hospitals, kennels, millinery shops, and child care facilities among others, shall not be deemed to be home occupations.

**HOSPITAL.** An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

**HOTEL AND/OR MOTEL.** An establishment consisting of one or more buildings containing dwelling units, with or without full kitchens or cooking facilities, that are designed and primarily used for temporary, short term lodging by transient occupants, which may include on-site services and facilities for those occupants.

**HOUSING FOR THE ELDERLY.** An institution other than a hospital or hotel, that provides housing or room and board to non-transient elderly persons primarily sixty (60) years of age or older. Housing for the elderly may include the following:

1. **Elderly Housing – Independent.** A multiple-family housing form consisting of self-sufficient dwelling units with full sanitary, limited or full kitchen, and similar facilities.
2. **Elderly Housing – Dependent.** A multiple-family housing form including central dining facilities provided as a basic service to each dwelling unit. Each dwelling unit may contain cooking facilities, and must contain sanitary facilities.
3. **Congregate Care.** A dependent elderly housing facility with cooking facilities within the unit, but also with a central dining service option. Limited medical care is available.
4. **Assisted Living.** A dependent elderly housing facility with only central dining service i.e., limited cooking facilities may be included in each dwelling unit. Limited medical care is available.
5. **Senior Apartments.** Multiple-family dwelling units for independent living.

**IMPROVEMENTS.** Those features and actions associated with a project which are considered necessary and required by a Village permit or approval or this Ordinance to protect natural resources, or the health, safety, and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, landscaping, parking, paving of parking and circulation areas, screening, and drainage. "Improvements" does not include the entire project which is the subject of the approval.

**INTERMEDIATE THOROUGHFARE.** See STREET

**JUNK.** Any motor vehicles, machinery, appliances, product or merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured. This definition specifically includes motor vehicles not movable under their own power.

**JUNK YARD.** Includes automobile wrecking yards or any area for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses established entirely within enclosed buildings.

**KENNEL.** Any lot or premises on which more than two (2) dogs and/or cats, four (4) months or more old, are kept either permanently or temporarily.

**LABORATORY.** An establishment where scientific or business research, experiments, studies, testing or analysis is performed. Manufacturing of product or products is not included within this definition.

**LAKE.** Any natural or artificial body of water, including but not limited to Lake Orion, defined as an “inland lake or stream” in the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended.

**LAND USE PLAN.** The Land Use Plan of the Village of Lake Orion as adopted and amended by the Village of Lake Orion Planning Commission. Also known as the Master Plan or Comprehensive Plan.

**LAWFUL.** A use that is in compliance with and allowed by all Federal, State, County and Village laws, including statutes, ordinances, rules and regulations.

**LIVESTOCK.** Cattle, horses, sheep, swine, poultry or any other domesticated animal or fowl which are being kept or produced primarily for purposes of commercial gain.

**LOADING SPACE.** An off-street space on the same parcel of property with a building or group of buildings, for temporary parking of vehicles while loading and unloading merchandise or materials.

**LOT.** A parcel of land that is or may be occupied by a use and its principal and accessory buildings, structures, yards and open spaces as are required under the provisions of this ordinance. A lot may be a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, contiguous portions of lots of record, a parcel of land described by metes and bounds or a condominium lot.

**LOT AREA.** The total horizontal area within the lot lines, exclusive of any public road rights-of-way or private road easements, including the area of any lake or other body of water, if so platted, and may include accreted land to which the lot owner has title.

**LOT, CONTIGUOUS.** Lots adjoining each other.

**LOT, CORNER.** A lot where at least two (2) adjacent sides abut for their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. When a lot is on a curve, if the tangents through the extreme point of the street line of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it is a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner. (See illustration “Corner, Interior and Double Frontage Lots”)

**LOT COVERAGE.** The part or percent of a lot, excluding any portion of that lot below the ordinary high water mark, occupied by buildings or structures including accessory buildings or structures. Where recreational vehicles are parked or stored on a lot they shall be included in lot coverage.

**LOT DEPTH.** The horizontal distance between the front street line and rear lot line, measured along the median between the side lot lines.

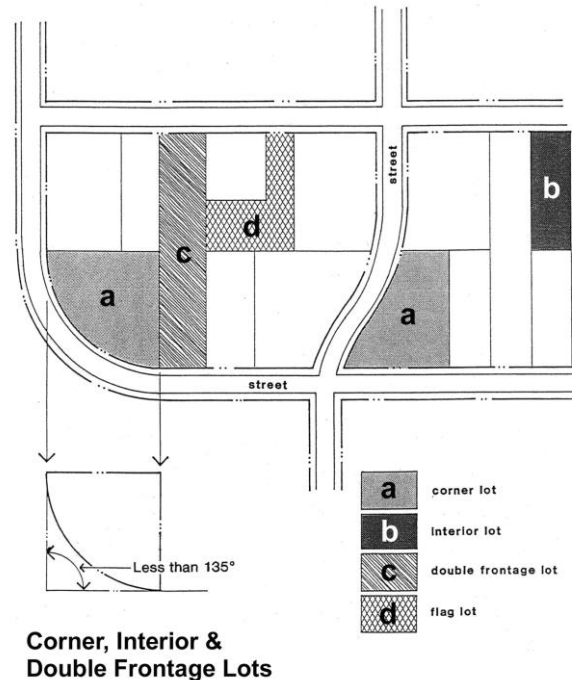
**LOT, DOUBLE FRONTAGE.** An interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, one street shall be designated as the front street in the plat and on the request for a building permit.

**LOT FRONTAGE.** The distance between the side lot lines of a lot, as measured along the abutting street.

**LOT, FLAG.** An interior lot which has frontage on a public or private street, with its buildable portion typically located behind other lots and which takes its access to the street by a narrow extension of the lot that is less than the minimum required lot width.

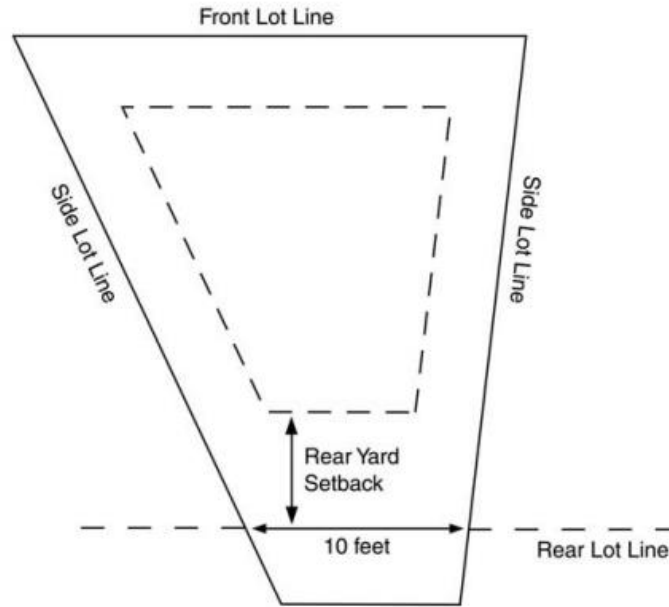
**LOT, INTERIOR.** A lot other than a corner lot. (See illustration “Corner, Interior and Double Frontage Lots”)

**LOT, LAKEFRONT.** A lot adjoining Lake Orion or its canals.



**LOT LINES.** The lines bounding a lot. (See illustration “Yard Terms”)

1. **Front Lot Line:** The line separating a lot from a public or private street right-of-way. In the case of any lot with frontage on more than one street, the Owner shall, for the purpose of this Ordinance, have the privilege of electing any street lot line as the front lot line, provided that such choice will be compatible with the existing development pattern of adjacent properties.
2. **Rear Lot Line:** That lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or gore shaped lot, a line ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line. (See illustration “Rear Lot Line-Irregular Lot”)
3. **Side Lot Line:** Any lot line other than the front, water front or rear lot lines.
4. **Side Street Lot Line:** A side lot line separating a lot from a public or private street right-of-way.
5. **Water Front Line:** For a lot abutting Lake Orion, the line separating the above ground portion of the lot from the ordinary high water mark.
6. **Interior Lot Line:** Any lot line that does not abut a street.



## Rear Lot Line - Irregular Lot

**LOT OF RECORD.** A lot which actually exists in a subdivision plat or condominium subdivision plan for a site condominium project as shown on the records of the Oakland County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT WIDTH.** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines. (see illustration "Lot Width")

**LOT, ZONING.** See ZONING LOT

**MAJOR THOROUGHFARE.** See STREET

**MANAGER.** The Village Manager of the Village of Lake Orion.

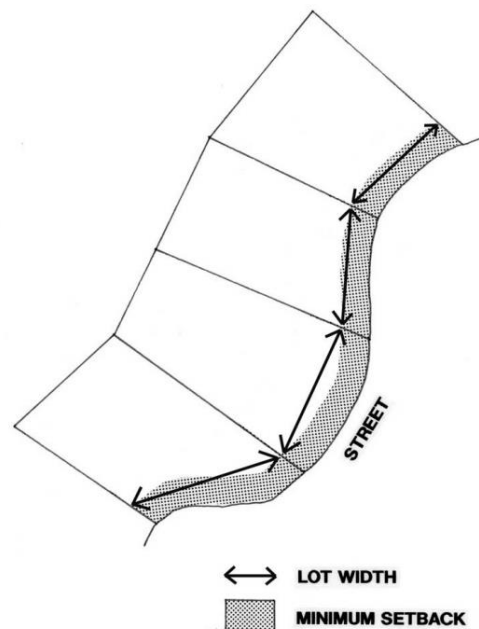
**MANUFACTURED HOUSING.** See DWELLING, MANUFACTURED

**MARINA.** A public or private facility which adjoins an inland lake or stream and offers service for docking, loading or other servicing of watercraft in exchange for remuneration.

**MEZZANINE.** See STORY, MEZZANINE

**MOBILE HOME OR HOUSE TRAILER.** See DWELLING, MOBILE HOME

**MOBILE HOME PARK OR TRAILER PARK.** A parcel or tract of land under the control of a person upon which



Lot Width

mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment or facility used or intended for use incidental to the occupancy of a mobile home, subject to conditions set forth in the Mobile Home Commission Rules and the Mobile Home Commission Act, Public Act 87 of 1987, as amended.

**MOTEL.** See HOTEL

**MOTOR VEHICLE.** A self-propelled vehicle designed, intended or used for the transportation of persons and/or property.

**MOTOR VEHICLE REPAIR.** The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair; overall painting, but not including undercoating of automobiles unless conducted in a completely enclosed spray booth.

**MOTOR VEHICLE WASH ESTABLISHMENT.** A building, or portion thereof, that is designed or used for the purpose of washing motor vehicles.

**MORTUARY ESTABLISHMENT.** See FUNERAL HOME

**NATURAL FEATURES.** Soils, wetlands, floodplains, water bodies, topography, vegetative cover, and geologic formations.

**NET ACRE/ACREAGE.** The area of a lot within its property lines or other designated area to be measured under this Ordinance that is calculated by deducting from its gross acreage, areas occupied or proposed for features or improvements that are to be excluded by one or more provisions of this Ordinance.

**NONCONFORMING LOT.** A lot or portion thereof existing on the effective date of this Ordinance or amendments thereto, that does not conform to the provisions of the Ordinance for the zoning district in which it is located.

**NONCONFORMING STRUCTURE.** A structure or portion thereof, including a building or buildings, that lawfully existed at the effective date of this Ordinance or amendment thereto, and that does not conform to the regulations for the zoning district in which it is located.

Nonconforming structures, for the purposes of this Ordinance shall include:

1. Nonconforming structures other than buildings, such as signs, fences, and other structures.
2. Buildings not in conformance with dimensional requirements, such as setbacks, lot coverage, and height.

**NONCONFORMING USE.** A use that lawfully occupies a building or land on the effective date of this Ordinance or amendment hereto, and that does not conform to the use regulations for the zoning district in which it is located.

Nonconforming uses, for the purpose of this Ordinance, shall include:

1. Nonconforming uses of open land.
2. Nonconforming uses of buildings designed for a conforming use.
3. Nonconforming uses in buildings specifically designed for the nonconforming use and not suitable for a conforming use.
4. Uses that are permitted by right or as special approval uses in the district in which they are located, but do not meet non-use standards.
5. All other nonconforming uses arising from the failure to meet any of the requirements imposed by this Ordinance.

**NURSERY, TREE AND SHRUB.** An area or establishment devoted to the raising and care of trees, shrubs, or other similar plant materials and may include space for the retail sale of such live plant materials for gardening or landscaping.

**NURSING HOME, CONVALESCENT HOME, or REST HOME:** A facility, other than a hospital, for the care of the aged, infirm, or those suffering from bodily disorders, wherein seven (7) or more unrelated individuals are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 368 of 1978, as amended. This definition does not include a unit in a state correctional facility, a hospital, a veterans facility created under Michigan Public Acts 152 of 1885, as amended, or a hospice residence.

**OFF-STREET PARKING LOT.** A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) motor vehicles.

**OPEN AIR BUSINESS USES.** Shall include the following and uses having similar characteristics:

1. Retail sale of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
2. Retail sale of fruit and vegetables.
3. Tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving range, children's amusement park or similar recreation uses.
4. Bicycle, trailer, motor vehicle, boats or home equipment sales, or rental services.
5. Outdoor display and sale of accessory buildings, swimming pools, other accessory structures, and similar uses.

**OPEN SPACE.** Any parcel or area of land that is generally free of structures and that is set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be required for recreation, resource protection, aesthetics, or other purposes.

**ORDINANCE ENFORCEMENT OFFICER.** A person designated by the Zoning Administrator as provided in Article 18 of this Ordinance.

**OUTDOOR STORAGE.** The storage of any materials or objects, including but not limited to building materials, equipment, and supplies, outside the confines of a building for more than 24 hours.

**OUTPATIENT CARE CENTER.** An establishment at which medical or surgical health services or treatments are provided to human patients which does not have facilities for or allow overnight/ in-patient stays or services.

**PARKING SPACE.** An area for the parking of one (1) motor vehicle, such space being exclusive of necessary drives, aisles, entrances or exits and being fully accessible for the storage or parking of permitted vehicles.

**PATIO.** A hard-surfaced space of land at grade adjacent to a residential dwelling unit or mobile home used as an extension of the interior of the home for private or semi-private entertainment or leisure activities.

**PAVED SURFACE.** Asphalt, brick, concrete or similar material placed on a surface to be flat, hard and smooth so as to facilitate vehicular parking, storage or travel.

**PERSONAL SERVICE ESTABLISHMENT.** A business in which a person performs a service on the body of another person, or the maintenance or repair of personal wardrobe articles and accessories, including but not limited to, a barber shop, beauty parlor, health spa, massage parlor, tattoo shop, nails, tanning, sauna/steam bath, laundry, shoe repair, dry cleaning depot and similar uses. Personal service establishments are distinguished from Adult Personal Service Businesses by their operating characteristics.

**PLACE OF WORSHIP.** Any structure wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

**PLANNED UNIT DEVELOPMENT.** A planning or construction project involving the use of special zoning requirements and review procedures that are intended to provide design and regulatory flexibility in accordance with the requirements of Article 11 of this Zoning Ordinance.

**PLANNING AND ZONING COORDINATOR.** A person designated by the Zoning Administrator as provided in Article 18 of this Ordinance.

**PLANNING COMMISSION.** The Planning Commission of the Village of Lake Orion.

**PORTABLE ON-DEMAND STORAGE UNIT ("PODS").** A transportable unit designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, and other such materials for use on a limited basis on residential property. Such units shall not include commercial trucks, trailers, recreational vehicles or similar.

**PUBLIC UTILITY.** Any person, firm, corporation, or board duly authorized to furnish, or furnishing under federal, state and municipal regulations, to the public, electricity, gas, steam, communications, sewage disposal, telegraph, transportation, or water. Wireless Communication Facilities, which are subject to this Ordinance, are excluded from this definition.

**RECREATIONAL VEHICLE.** Including the following:

6. **Travel Trailer.** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" or "folding tent trailer" by the manufacturer. Travel trailers may contain sanitary, water, and electrical facilities.
7. **Pickup Camper.** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for uses as a temporary dwelling during travel, recreational, and vacation uses.
8. **Motor Home.** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.
9. **Vessel or Watercraft.** A boat or other device designed or used for the transport of one or more persons on or in the water.
10. **Boat.** A vessel that is licensed or required to be licensed by the State of Michigan.
11. **Vessel Trailer.** A licensed or unlicensed vehicle that is not self-propelled, is designed to be pulled by a motor vehicle, and is the normal equipment used to transport a vessel(s) on the highway.
12. **Other Recreational Equipment.** Includes snowmobiles, all terrain or special terrain vehicles, plus the normal equipment to transport them on the highway.

**RESIDENTIAL CARE FACILITIES.** Each of the child care and adult foster care residential care facilities described below are more fully defined, with conditions and exceptions, in MCL 722.111, as amended, for child care organizations, and MCL 400.703 – 400.707, as amended, for adult foster care facilities, with those definitions adopted and incorporated by reference to supplement the following descriptions of those facilities:

1. **Child Care Facilities.** Each of the facilities described below is for the care of children under 18 years of age, must be licensed by the State of Michigan under Public Act No. 116 of 1973, as amended, and be in compliance with that license and Act and any applicable rules or regulations.
2. **Child Care Center.** A facility, other than a private residence, receiving 1 or more pre-school or school age children for group care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. It includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day.

The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative, preschool play group, before or after school program or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

3. **Group Child Care Home.** A private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian,

except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

4. **Family Child Care Home.** A private home in which fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year but does not include babysitting services as defined in MCL 722.111(1)(i)(iii).
5. **Foster Family Home.** A private home in which fewer than 5 minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent, legal guardian or legal custodian.
  - a) **Foster Family Group Home.** A private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent, legal guardian or legal custodian.
  - b) **Adult Foster Care Facilities.** Each of the facilities described below is for the foster care of adults, 18 years of age or older, by a governmental or non-governmental establishment that must be licensed by the State of Michigan under Public Act 218 of 1979, as amended, and be in compliance with that license and Act and any applicable rules and regulations. Such facilities are for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or a residential center for persons released from or assigned to a correctional facility. Foster care is supervision, personal care, and protection in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.
    - **Adult Foster Care Small Group Home.** A facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.
    - **Adult Foster Care Large Group Home.** A facility with approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.
    - **Adult Foster Care Family Home.** A private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

**RESTAURANT.** An establishment whose principal business is the sale of food and/or beverages to the customer in a ready-to-consume state, with the types of restaurants based on the method of operation and features of the establishment being as defined below:

1. **Restaurant, Carry-Out.** A restaurant whose method of operation involves the sale of food and beverages in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
2. **Restaurant, Drive-In.** A restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle for consumption while in the motor vehicle and parked on the premises.
3. **Restaurant, Drive-Through.** A restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
4. **Restaurant, Fast-Food.** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.



5. **Restaurant, Standard.** A restaurant whose method of operation involves either:
- The delivery of prepared food and/or beverages (excluding alcohol service) by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - The prepared food and/or beverages (excluding alcohol service) are ordered and acquired by customers at a counter and subsequently consumed by the customers at tables within a completely enclosed building.

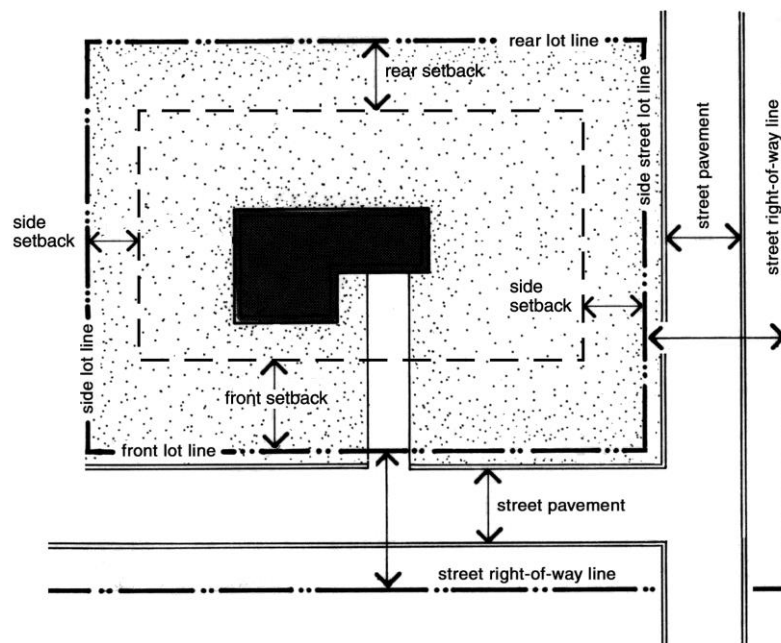
**RIGHT OF WAY.** An area of land reserved, dedicated or otherwise designated by deed, plat, condominium subdivision plan, easement or other legal document, for public or private streets, alleys, walkways, parks, utilities, access or other uses .

**RUBBISH.** The miscellaneous waste materials resulting from housekeeping, mercantile enterprise, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals, or any similar or related combinations thereof.

**SATELLITE DISH ANTENNA.** An accessory structure designed, intended or used to receive communications or other signals from geostationary, direct satellite, communications satellites or other extraterrestrial sources. See also ANTENNA STRUCTURE.

**SETBACK.** The distance between the front, side, or rear lot line and the nearest part of a structure on a lot.

1. **Minimum Required Setback.** The minimum distance between the front, side or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (See YARD, see also illustration "Setback Terms").
2. **Established Front Setback Line.** In the RV, Village Single Family Residential District, a setback determined based on the pattern of existing building setbacks.



**Setback Terms**

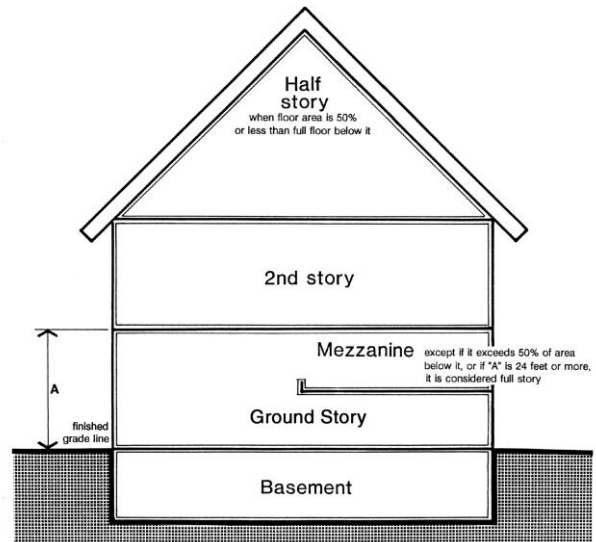
**SITE PLAN.** A plan, prepared to scale, as required in Article 19, showing the boundaries of a site and the location of all buildings, structures, uses and site development features proposed for a specific parcel of land.

**SOIL REMOVAL.** The removal of any kind of soil or earth matter that includes topsoil, sand, gravel, clay or similar materials or any combination thereof, except common household gardening.

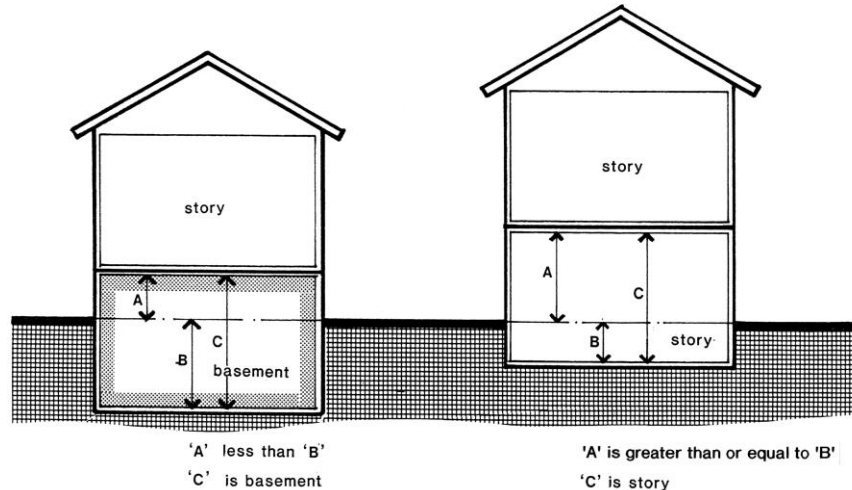
**STATE EQUALIZED VALUE.** The value shown on the Village assessment roll as equalized through the process of State and County equalization per Michigan law.

**STORY.** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. (See illustrations "Basement and Story" and "Basic Structural Terms")

1. **Ground Story.** The lowest story of a building that cannot be considered a basement.
2. **Ground Story Walkout.** The lowest story of a building which cannot be considered a basement; and which must have at least one side open by way of a door to the exterior, which is above the finished grade on that side (See illustration "Ground Story Walkout").
3. **Half Story.** The part of a building between a pitched roof and the uppermost full story, said part having a finished floor area which does not exceed one-half ( $1/2$ ) of the floor area of said full story.
4. **Mezzanine.** An intermediate level or levels between the floor and ceiling of any story with a floor area of less than one half ( $1/2$ ) of the floor area of the story in which the level or levels are located. A Mezzanine shall be deemed a full story when it covers more than fifty (50) percent of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty-four (24) feet or more.
5. **Basement.** That portion of a building which is wholly or partially below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A Basement shall not be counted as a story.



Basic Structural Terms



## Basement and Story

**STREET.** An public or private right-of-way that is improved or proposed for improvement to afford a principal means of motor vehicle access to other streets and abutting property, and an unimproved but dedicated and accepted public right-of-way for such access, with the term street including avenues, places, ways, drives, lanes, boulevards, highways, roads, and any other thoroughfares except alleys.

1. **Public Street.** A street under the jurisdiction of the Village of Lake Orion or other governmental authority.
2. **Private Street.** A street not under the jurisdiction of the Village of Lake Orion or other governmental authority.
3. **Collector Street.** A public street designated as a collector street in the most current Land Use Plan.
4. **Intermediate Thoroughfare.** A public street designated as an intermediate thoroughfare in the most current Land Use Plan.
5. **Major Thoroughfare.** A public street designated as a major thoroughfare in the most current Land Use Plan.

**STRUCTURAL ALTERATION.** Any change in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders or any change in the height, width or number of windows or exits, or any substantial change in the roof, except that a window may be lowered.

**STRUCTURE.** Anything constructed or erected which requires permanent location on the ground or attachment to something having such location.

**SUBDIVISION REGULATIONS.** Regulations governing the subdivision of land, providing for the procedure for the preparation and filing of plats, tentative approval of preliminary plats, submission of record of final plats, approval of the plats by the Village Council, providing for platting regulations and requirements in easements, blocks and lots, and providing penalties for the violation thereof, as promulgated and created by the Village of Lake Orion.

**SURGICAL CENTER.** An establishment where surgical medical procedures are performed on human patients on an out-patient basis, the same day as the patients are admitted and discharged.

**SWIMMING POOL.** Any structure or container intended for swimming or bathing located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches.

**TAXABLE VALUE.** The value on which property taxes are calculated.

**TEMPORARY USE.** A use of land permitted to exist during a specified period of time. Temporary uses do not include uses approved through the site plan review process of this Zoning Ordinance.

**TRAVEL TRAILER.** See RECREATIONAL VEHICLE

**TREASURER.** The Treasurer of the Village of Lake Orion.

**UNDERLYING ZONING.** The zoning classifications and regulations applicable to a property immediately preceding the approval to develop the property as a planned unit development under Article 11 or any other overlay zoning or development option that may be recognized in this Ordinance.

**USE.** A purpose and activity for which a lot, building or structure or any portion thereof is designed, arranged, intended, occupied or maintained, and any activity, occupation, business or operation on a lot or portions thereof.

**VEHICLE, COMMERCIAL.** Any motor vehicle used for the transportation of passengers for hire, or constructed or used for transportation of goods, wares or merchandise, and/or all motor vehicles designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

**VILLAGE.** The Village of Lake Orion.

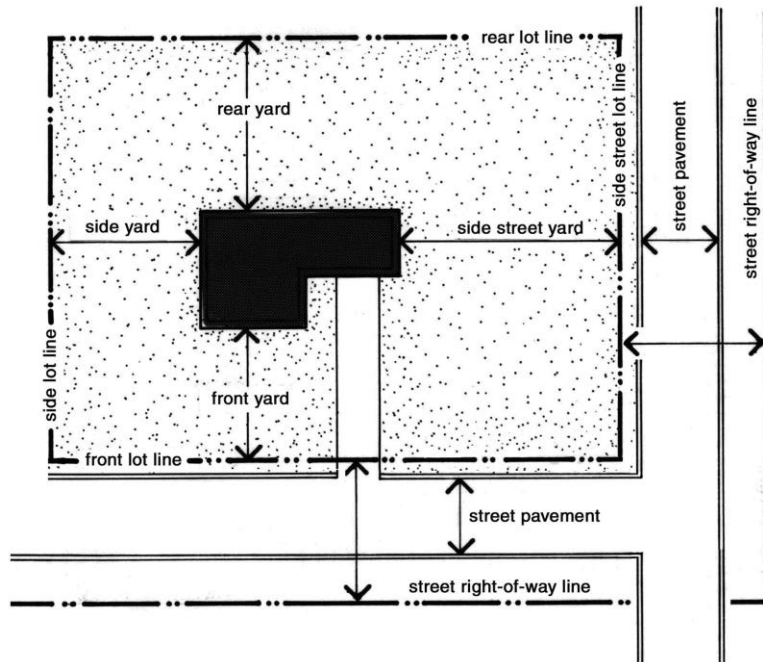
**WIRELESS COMMUNICATION FACILITIES.** The following definitions shall apply in the interpretation of this Ordinance. (See also ANTENNA STRUCTURES)

1. **Wireless Communication Facilities.** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television 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.
2. **Attached Wireless Communications Facilities.** Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
3. **Wireless Communication Support Structures.** 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. (See also ANTENNA STRUCTURES)
4. **Colocation.** The location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the intent of reducing the overall number of structures required to support wireless communication antennas within the community.

**YARD.** An open space, unoccupied and unobstructed from the ground upward on the same lot with a building, except as otherwise provided in this Ordinance. The measurement of yard is the minimum horizontal distance between the lot line and the building or structure. (See SETBACK; also, see illustration "Yard Terms")

1. **Yard, Front.** A yard extending the full width of the lot. The depth of the front yard is the minimum horizontal distance between the front lot line and the nearest line of the principal building on the lot.
2. **Yard, Rear.** A yard extending the full width of the lot. The depth of the rear yard is the horizontal distance between the rear lot line and the rear line or lines of the principal building on the lot.
3. **Yard, Side.** A yard between the side line of the lot and the nearest line of the principal building and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front and rear lot lines, as the case may be except that on a corner lot, the side yard adjacent to a street shall extend the full depth of the lot.

4. **Yard, Side Street.** On a corner or through lot with more than one street line, an open space between a principal building and the side lot line separating the lot from the street.
5. **Yard, Water Front.** An open space extending the full width of the water line of a lot that has frontage on Lake Orion. The depth of the water front yard is the horizontal distance between the ordinary high water mark and the nearest line of the principal building.



## Yard Terms

**ZONE OR ZONING DISTRICT.** A portion of the Village of Lake Orion within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

**ZONING ADMINISTRATOR.** The Village Manager of the Village of Lake Orion or his designee.

**ZONING LOT.** All or parts of a lot or group of contiguous lots under single or common ownership for which an approval under this Ordinance is requested or needed for use or development as a single unit, or multiple lots that are considered to be a single undivided lot under the provisions in Section 13.08.

# Article 3.

## Creation of Zoning Districts and Zoning Map

### Section 3.01 DISTRICTS

The Village of Lake Orion is hereby divided into six (6) zoning districts known as follows:

RV	Village Single Family Residential
RL	Lake Single Family Residential
RM	Multiple Family Residential
DC	Downtown Center
CC	Corridor Commercial
MU	Mixed Use

### Section 3.02 ZONING MAP

- A. **District Boundaries.** The boundaries of these districts are shown upon the map attached hereto and made a part of this Ordinance, which map is designated as the Zoning Map of the Village of Lake Orion. The Zoning Map attached hereto and on file in the office of the Village Clerk and all notations, references, and other information shown thereon are a part of this Ordinance and have the same force and effect as if said Zoning Map and all such notations, references, and other information shown thereon were fully set forth or described herein. Except where references on the Zoning Map to a street or other designated line by the dimensions shown on the Zoning Map, the district boundary lines follow lot lines or the center line of the street or alley rights-of-way or such lines extended and the corporate limits of the Village of Lake Orion, as they existed at the time of the adoption of this Ordinance.
- A. **Streets, Alleys and Railroad Rights-of-Way.** All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon those streets, alleys, or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary, the zoning of the street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.
- B. **Lots Divided by District Boundaries.** Where a district boundary line, as established in this section or as shown on the Zoning Map, divides a lot which was in a single ownership and of record at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot, under this Ordinance, shall be considered as extending to the entire lot, provided that the more restricted portion of such lots is entirely within twenty-five (25) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- C. **Boundary Interpretations.** Questions concerning the exact location of district boundary lines shall be determined by the Board of Appeals after recommendation from the Planning Commission.

# Article 4.

## Single Family Residential Districts:

RV – Village Single Family Residential District

RL – Lake Single Family Residential District

### Section 4.01 STATEMENT OF PURPOSE

- A. **Purpose.** The Single Family Residential Districts are established as districts in which the principal use of land is for single family dwellings and related educational, cultural, and religious uses where found appropriate and harmonious with the residential environment. For these Single Family Residential Districts in promoting the general purpose of this Ordinance, the specific intent of this Section is:
1. To encourage the construction of, and the continued use of the land for single family dwellings.
  2. To establish zoning districts consistent with the historic development pattern and existing platted lot widths in the Village.
  3. To prohibit business, commercial or industrial use of the land, and to prohibit any other use, which would substantially interfere with the development or maintenance of single family dwellings in the district.
  4. To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this Ordinance.
  5. To discourage any land use which would generate traffic on minor or local streets, other than normal traffic to serve the single family dwellings on those streets.
  6. To discourage any use which, because of its character or size would create requirements and costs for public services, such as fire and police protection, water supply and sewerage, substantially in excess of such requirements and costs if the district were developed solely for single family dwellings.

### Section 4.02 PERMITTED USES

- A. **Principal Permitted Uses.** In the RV and RL Districts, the following uses are permitted:
1. Single family detached dwellings.
  2. Public, parochial and private elementary, intermediate, and/or high schools.
  3. Publicly owned or operated buildings, municipal buildings, facilities and uses, libraries, parkways and recreational facilities.
    - a) All vehicular access shall be from a major or intermediate thoroughfare, or detailed traffic studies may be required showing, to the satisfaction of the Planning Commission, that no significant adverse impact upon surrounding uses will result.

- b) Outside storage shall be subject to site plan approval by the Planning Commission. All outside storage shall be screened from view off-site by use of a six (6) foot high decorative masonry wall, dense landscaping forming an opaque screen to a height of six (6) feet at the time of planting, or other means determined acceptable by the Planning Commission.
    - c) Barbed wire, industrial-type fences and site features that adversely impact the residential quality are prohibited.
  - 4. Adult foster care family home, as defined in "Residential Care Facilities" in Section 2.02, and excluding facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.
  - 5. Family child care home, as defined in "Residential Care Facilities" in Section 2.02.
  - 6. Foster family group home, as defined in "Residential Care Facilities" in Section 2.02.
  - 7. Foster family home, as defined in "Residential Care Facilities" in Section 2.02.
  - 8. Parks.
- B. Permitted Uses After Special Land Use Approval.** In the RV and RL Districts, the Planning Commission may permit the following uses in accordance with the procedures and discretionary standards of Section 19.03 and the standards below:
- 1. Places of worship, subject to the following requirements:
    - a) The lot location shall be such that at least one (1) property line abuts a collector street, intermediate thoroughfare, or major thoroughfare. All ingress and egress to the lot shall be directly onto said street.
    - b) Off-street parking that abuts a residential district shall be screened.
  - 2. Child care centers and group child care homes, as defined in "Residential Care Facilities" in Section 2.02., subject to the following requirements:
    - a) No dormitory facilities are permitted. Such facilities shall not exceed sixteen (16) hours of operation during a 24-hour period. The Village may place limits on the operation of such facilities between the hours of 10:00 p.m. and 6:00 a.m.
    - b) An outdoor play area shall be provided, equipped and maintained on the premises that contains a minimum of one hundred (100) square feet of usable outdoor play area per child based on the maximum licensed capacity of the facility (minimum total area of 1,500 square feet per facility).
    - c) The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses. Fencing shall be decorative, as determined by the Planning Commission.
    - d) Such uses shall abut multiple family or non-residential zoning on at least one (1) side of the lot. No such facility shall be permitted on the interior of a residential block.
    - e) Adequate ingress, egress, and circulation shall be provided. Vehicles must be able to easily circulate within and through the site to a designated pick-up/drop-off area without obstructing traffic on nearby roads.
    - f) The facility shall not be located closer than 1,500 feet to any of the following:
      - 1) Another licensed group child care home or child care center.
      - 2) An adult foster care small group home or large group home.
      - 3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Michigan Public Health Code.
      - 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.



- g) The property shall be maintained consistent with the visible characteristics of the neighborhood.
- 3- 3. Private not-for-profit recreation uses, institutional or community recreation centers, subject to the following requirements:
- a) The site shall have a least one (1) property line abutting a major thoroughfare.
  - b) No structure shall be located closer than eighty (80) feet to any residentially zoned property.
  - c) All lighting shall be shielded.
  - d) Whenever off-street parking areas are adjacent to land zoned for residential purposes, a wall or dense landscape screen, as determined by the Planning Commission, shall be provided along the sides of the parking area adjacent to such residential land.
  - e) Off-street parking shall be provided so as to accommodate not less than one-half (1/2) of the member families and/or individual members or as may be modified by the Planning Commission.
4. Public utility buildings, (telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards) only when operating requirements necessitate locating within the district to serve the immediate vicinity and subject to the following requirements:
- a) Such uses shall not create a health or safety hazard, a nuisance, or have deleterious impact on the appearance or property values of the surrounding area due to either appearance or operation.
  - b) Electric or gas regulator equipment and apparatus shall be setback a minimum of fifteen (15) feet from any lot line.
  - c) No outside service or storage yards shall be permitted.
  - d) All structures shall be at a scale and have an exterior appearance compatible with a residential area.
  - e) Nothing in these regulations shall be construed to prevent the construction, installation and operation of necessary utility and public service buildings and uses within residential zones. These provisions are not, however, intended to include power-generating facilities, bulk power, fuel stations, or other large scale facilities.
  - f) Security enclosures shall not exceed 12 feet in height and shall be compatible with the surrounding neighborhood.
  - g) All such uses shall be screened or buffered from view off-site, to the satisfaction of the Planning Commission;
5. Wireless communication facilities, only as may be permitted under the provisions of Section 13.25 of this Ordinance.
6. Adult foster care small group homes and adult foster care large group homes as defined in "Residential Care Facilities" in Section 2.02, and subject to the following requirements:
- a) Adequate ingress, egress, and circulation shall be provided. Vehicles must be able to easily circulate within and through the site to a designated pick-up/drop-off area without obstructing traffic on nearby roads.
  - b) The facility shall not be located closer than 1,500 feet to any of the following:
    - 1) A group child care home or child care center.
    - 2) Another adult foster care small group home or large group home.
    - 3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Michigan Public Health Code.

- 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
- c) The property shall be maintained consistent with the visible characteristics of the neighborhood.
- 7. Functional Equivalent Family – Additional Persons. The limit upon the number of persons who may reside as a functional equivalent of the domestic family may be increased or enlarged upon a demonstration by the applicant of all of the following:
  - a) There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on the premises.
  - b) The extent of increase or enlargement of the limit upon the number of persons shall not, considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools.
  - c) There shall be a minimum of 125 square feet of usable floor space per person on the premises.
  - d) If the Planning Commission grants an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and any minimum parking or storage requirements to be maintained.
- 8. Bed and breakfast facilities, subject to the following requirements:
  - a) One (1) off-street parking space shall be provided for each guest sleeping room. Parking areas shall be screened from view from the Lake and M-24 by an evergreen hedge with a minimum height of 3 feet.
  - b) A bed and breakfast shall have a maximum of 6 rooms available for rent.
  - c) No guest or patron shall stay on the premises for more than 14 consecutive nights.

#### C. Permitted Accessory Uses and Structures

- 1. Accessory buildings, structures or uses customarily incidental to any of the principal permitted uses in the Single Family Residential Districts, when located on the same lot.
- 2. Home occupations, subject to Section 13.13.
- 3. Boat houses and boat hoists (only in the RL District), subject to Section 13.11.

## Section 4.03 DEVELOPMENT STANDARDS

- A. **Site Plan Review.** For all uses permitted in RV and RL Districts, except for single family dwellings and their customary accessory buildings, structures and uses, site plan review is required and a site plan shall be submitted in accordance with Section 19.02(B) of this Ordinance.
- B. **Area, Height, Bulk and Placement Requirements.** Buildings, structures and uses in the RV and RL Districts are subject to the area, height, bulk and placement requirements of Article 12, Schedule of Regulations.

The following tables summarize the dimensional regulations in Article 12.

#### RV District Regulations<sup>1</sup>

Minimum Lot Width	60 ft. <sup>1</sup>
Minimum Lot Area	7,200 sq. ft. <sup>1</sup>
Maximum Building Height	30 ft.

Minimum Setbacks

Front 25 ft., or EFS, whichever is less  
Side Based on Lot Width

Lot Width	Side Yards	
	Least One	Total Two
60 ft. and greater	10 ft.	20 ft.
50 ft. to less than 60 ft.	5 ft.	15 ft.
Less than 50 ft.	5 ft.	10 ft.

Rear.....25 ft.

Maximum Lot Coverage .....40%

Minimum Floor Area..... 1,200 sq. ft.

1. See Section 4.03(C)(1), below, for exceptions to these standards

## RL District Regulations

Minimum Lot Width.....60 ft.<sup>2</sup>

Minimum Lot Area .....7,200 sq. ft.<sup>2</sup>

Maximum Building Height.....30 ft.

Minimum Setbacks

Front (Street) .....25 ft.

Front (Water) .....25 ft.

Side .....5 ft.

Rear.....25 ft.

Maximum Lot Coverage .....40%

Minimum Floor Area.....900 sq. ft.

1. See Section 4.03(C)(2), below, for exceptions to these standards.
2. See Section 13.11(C)(2) for exceptions to these standards.

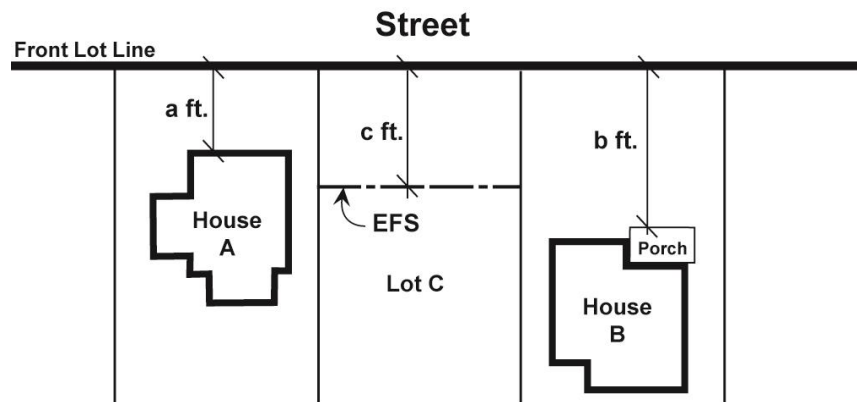
## C. Exceptions to the Dimensional Standards.

1. **Exceptions in the RV District.** In the case of lots located in an existing platted subdivision, the Planning Commission may recommend, and Village Council may permit the creation of new lots that are less than the minimum width and area requirements of the RV District if the proposed lots are consistent with the width and area of the underlying platted lots, subject to the following requirements:
  - a) No lot shall be created with a width of less than 50 feet in the RV District or an area of less than 5,000 square feet.
  - b) Lots created under this option shall be subject to all setbacks and other requirements of this Ordinance, except for lot area and width, as provided above.
2. **Exceptions in the RL District.** In the case of lots located in an existing platted subdivision, the Planning Commission may recommend, and Village Council may approve the creation of new lots that

are less than the minimum width and area requirements of the RL District if the proposed lots are consistent with the width and area of the underlying platted lots, subject to the following requirements:

- a) No lot shall be created with a width of less than 40 feet and an area of less than 4,000 square feet in the RL District.
- b) Lots created under this option shall be subject to all setbacks and other requirements of this Ordinance except for lot area and width, as provided above.

D. **Established Front Setback Line (RV District).** The front setback shall be based on the Established Front Setback Line (EFS). The EFS for a lot shall be the average of the front setbacks of adjacent principal buildings on each side of the subject lot, provided that the adjacent principal buildings are within 100 feet of the side lot lines of the subject lot. The adjacent principal buildings measured shall be on the same side of the street and in the same zoning district as the subject lot. See illustration, "Established Front Setback".



$$EFS = \frac{a \text{ ft.} + b \text{ ft.}}{2} = c \text{ ft.}$$

## Established Front Setback

The following procedures shall be used in determining the EFS:

1. On the exterior face of the principal building on each adjacent lot fronting on the same street, measure the distance from the point on the building that is closest to the front lot line. Balconies, porches and decks with surfaces (excluding railings) raised more than 8 inches above the surrounding grade, shall be included when determining the EFS.
2. Any structure 8 inches or less above grade shall be disregarded when determining the EFS.
3. In the event that one of the adjacent lots is vacant, then the minimum required 25 foot front setback shall be used for that lot in calculating the EFS.
4. In the event that the subject lot is on a corner, then the minimum required 25 foot front setback shall be used in the EFS calculations as the adjacent setback figure for the side of the lot that adjoins a street.
5. In no event shall the permitted front setback be less than 17 feet.

# Article 5.

## RM – Multiple Family Residential District

### Section 5.01 STATEMENT OF PURPOSE

The intent of the RM, Multiple Family Residential District is to address the varied housing needs of residents of different age and family groups by providing various types and sizes of residential dwellings for ownership or rental at a higher density than is permitted in any of the Single Family Residential Districts. Multiple family housing should be located near major thoroughfares and collector streets for good accessibility and must be designed so as not to overtax existing community facilities, utilities or services.

### Section 5.02 PERMITTED USES

- A. **Principal Permitted Uses.** In the RM District, the following uses are permitted:
1. All Principal Permitted Uses in the RV and RL Districts subject to all requirements for such uses in those zoning districts.
  2. Two-family dwellings.
  3. Multiple family dwellings including:
    - a) Apartment houses
    - b) Townhouse dwellings
    - c) Efficiency units
    - d) Single-family terrace units
    - e) Stacked flats
  4. Nursing homes, convalescent homes, or rest homes.
  5. Housing for the elderly, including independent and dependent elderly housing, as defined in “Housing For the Elderly” in Section 2.02 and subject to the following requirements:
    - a) Common recreation space for residents shall be provided, subject to all of the following:
      - 1) The total area of recreation space (indoor and outdoor) shall equal or exceed 10 percent of the gross floor area of all buildings in the project.
      - 2) Recreation space shall include areas for both passive and active recreation.
      - 3) If developed in phases, the recreation space improvements shall be completed in proportion to the gross floor area constructed in each phase.

- 4) Off-street parking areas, street rights-of-way or street setback areas, access drives, perimeter yard setbacks, and submerged land areas of a lake, pond, river or stream shall not be counted as recreation space.
- b) No housing for the elderly shall be converted to any other use without complying with all of the provisions of this Ordinance in effect at the time of conversion.
- c) Sidewalks shall be provided from the main building entrance(s) to sidewalks along adjacent public or private streets.
- d) The maximum density of elderly housing units shall not exceed the number of dwelling units that would be otherwise permitted in the RM zoning district. Elderly housing units shall be calculated at the following ratios:

Unit Type	Ratio of Elderly Housing Units to Standard Dwelling Units
Independent	1:1
Congregate	2:1
Assisted	4:1

6. Municipal buildings, facilities and uses, parks, parkways and other open spaces for the public use and/or enhancement of this district.

**B. Permitted Uses After Special Land Use Approval.** In the RM District, the Planning Commission may permit the following uses in accordance with the procedures and discretionary standards of Section 19.03 and the standards below:

1. Hospitals, outpatient care centers, surgical centers, and other similar uses, but not including institutions for the care of the mentally impaired or mentally ill, subject to the following requirements:
  - a) The lot location shall be such that at least one (1) property line abuts a major or intermediate thoroughfare. The ingress and egress for off-street parking facilities for guests and patients shall be directly from said major thoroughfare.
  - b) Ambulance and emergency entrance areas shall be visually screened from the view of adjacent residential uses by a structure or by a decorative masonry wall six (6) feet or more in height, or other screening acceptable to the Planning Commission.
  - c) No power plant or laundry shall be located nearer than 300 feet to any adjacent residential use.
2. Funeral homes and mortuary establishments, subject to the following requirements:
  - a) The lot shall be arranged so that adequate off-street assembly area is provided for vehicles in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
  - b) The site shall be so located as to have at least one (1) property line abutting a major or intermediate thoroughfare. All ingress and egress for the site shall be designed so as to not create adverse impacts on neighboring land uses.
  - c) Points of ingress and egress for the site shall be designed to minimize possible conflicts between traffic on adjacent thoroughfares and funeral processions, visitors, and/or traffic.
  - d) A caretaker's residence may be provided within the main building of the mortuary establishment.
  - e) Loading and unloading areas used by ambulances, hearses, or other such service vehicles shall be obscured from residential view with a decorative masonry wall six (6) feet in height, or other screening acceptable to the Planning Commission.
3. Bed and breakfast facilities and boarding houses, subject to the following requirements:

- a) One (1) off-street parking space shall be provided for each guest sleeping room.
  - b) A bed and breakfast shall have a maximum of six (6) rooms available for rent.
  - c) No guest or patron shall stay on the premises for more than 14 consecutive nights.
  - d) The site shall be designed and operated so as to not have adverse impacts on the surrounding neighborhood.
4. Adult foster care small group homes and adult foster care large group homes as defined in "Residential Care Facilities" in Section 2.02, and subject to the following requirements:
- a) Adequate ingress, egress, and circulation shall be provided. Vehicles must be able to easily circulate within and through the site to a designated pick-up/drop-off area without obstructing traffic on nearby roads.
  - b) The facility shall not be located closer than 1,500 feet to any of the following:
    - 1) A group child care home or child care center.
    - 2) Another adult foster care small group home or large group home.
    - 3) A facility offering substance abuse treatment under Article 6 of the Michigan Public Health Code.
    - 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.
  - c) The property shall be maintained consistent with the visible characteristics of the neighborhood.
5. Mobile home parks subject to the following requirements:
- a) Minimum lot size shall be 20 acres.
  - b) Maximum density shall be six (6) units per acre.
  - c) Said park shall comply with the Michigan Mobile Home Commission Act, P.A. 419 of 1976, as amended, and Administrative Rules promulgated under the Act.
6. Child care centers and group child care homes, as defined in "Residential Care Facilities" in Section 2.02., subject to the following requirements:
- a) No dormitory facilities are permitted. Such facilities shall not exceed 16 hours of operation during a 24-hour period. The Village may place limits on the operation of such facilities between the hours of 10:00 p.m. and 6:00 a.m.
  - b) An outdoor play area shall be provided, equipped, and maintained on the premises that contains a minimum of 100 square feet of usable outdoor play area per child at the maximum licensed capacity of the facility (minimum total area of 1,500 square feet of outdoor play area per facility).
  - c) The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses. Fencing shall be decorative, as determined by the Planning Commission.
  - d) Adequate ingress, egress, and circulation shall be provided. Vehicles must be able to easily circulate within and through the site to a designated pick-up/drop-off area without obstructing traffic on nearby roads.
  - e) The facility shall not be located closer than 1,500 feet to any of the following:
    - 1) Another licensed group child care home or child care center.
    - 2) An adult foster care small group home or large group home.
    - 3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Michigan Public Health Code.
    - 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

7. Functional Equivalent Family: Additional Persons. The limit upon the number of persons who may reside as a functional equivalent of the domestic family may be increased or enlarged upon a demonstration by the applicant of all of the following:
  - a) There are adequate provisions on the subject property for off-street parking for each adult proposed to reside on the premises, and adequate storage for each person proposed to reside on the premises.
  - b) The extent of increase or enlargement of the limit upon the number of persons shall not, considered cumulatively with existing and reasonably projected population concentration in the area, place an unreasonable burden upon public services, facilities and/or schools.
  - c) There shall be a minimum of 125 square feet of usable floor space per person on the premises.
  - d) If the Planning Commission approves an application under this provision, the determination shall include the specific maximum number of persons authorized to reside on the property, and any minimum parking or storage requirements to be maintained.
8. Places of worship, subject to the following requirements:
  - a) The lot location shall be such that at least one (1) property line abuts a collector street, intermediate thoroughfare, or major thoroughfare. All ingress and egress to the lot shall be directly onto said street.
  - b) Off-street parking which abuts a single family residential district shall be screened.
9. Public utility buildings (telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, but not including service or storage yards) only when operating requirements necessitate locating within the district in order to serve the immediate vicinity and subject to the following requirements:
  - a) Such uses shall not create a health or safety hazard, a nuisance or have deleterious impact on the appearance or property values of the surrounding area due to either appearance or operation.
  - b) Electric or gas regulator equipment and apparatus shall be setback a minimum of 15 feet from any lot line.
  - c) No outside service or storage yard shall be permitted.
  - d) All structures shall be at a scale and have an exterior appearance compatible with a residential area.
  - e) Nothing in these regulations shall be construed to prevent the construction, installation and operation of necessary utility and public service buildings and uses within residential zones. These provisions are not, however, intended to include power-generating facilities, bulk power, fuel stations, or other large scale facilities.
  - f) Security enclosures shall not exceed 12 feet in height, and shall be compatible with the surrounding neighborhood.
  - g) All such uses shall be screened or buffer from view off-site, to the satisfaction of the Planning Commission.
10. Wireless communication facilities, only as may be permitted under the provisions of Section 13.25 of this Ordinance.

**C. Permitted Accessory Uses and Structures**

1. Accessory buildings, structures or uses customarily incidental to any of the principal permitted uses in the RM District.
2. Home occupations, subject to Section 13.13.



## Section 5.03 DEVELOPMENT STANDARDS

A. **Site Plan Review.** For all uses permitted in RM District, except single-family detached dwellings and their customary accessory buildings, structures and uses, site plan review is required and a site plan shall be submitted in accordance with Section 19.02(B) of this Ordinance.

B. **Area, Height, Bulk and Placement Requirements.** Buildings, structures and uses in the RM District are subject to the area, height, bulk and placement requirements of Article 12, Schedule of Regulations.

1. The following tables summarize the regulations in Article 12 for residential dwellings in the RM District:

Requirement	Multiple Family	Duplex	Single Family
Maximum Building Height	40 ft.	30 ft.	30 ft.
Setbacks			
Front	25 ft.	25 ft.	25 ft.
Side (each)	25 ft.	10 ft.	10 ft.
Rear	25 ft.	25 ft.	25 ft.
Maximum Lot Coverage	35%	40%	40%
Minimum Lot Area	*	8,400 sq. ft.	7,200 sq. ft.
Minimum Lot Width	70 ft.	70 ft.	60 ft.

\* See Section 12.02 footnote h.

2. Non-dwelling uses in the RM District shall comply with the requirements of Section 12.02.

# Article 6.

## DC – Downtown Center District

### Section 6.01 STATEMENT OF PURPOSE

The DC, Downtown Center District is intended to be a compact, lively, pedestrian-oriented district that permits a wide diversity of retail, commercial, office, restaurant, civic, cultural, entertainment, recreation, and residential uses. Building design should be based on traditional design principles, with primary building entrances that are physically and visually oriented toward the street.

Buildings in the Downtown Center District should have a minimum of or the appearance of two stories. Retail, restaurant, and entertainment uses are encouraged on the first floor of buildings, with office, service, and residential uses encouraged on upper stories. It is the intent of this District to provide flexibility in the uses permitted in the Downtown Center District to ensure a vibrant downtown atmosphere. Further, the Village downtown has a significant, recognized historic character, as evidenced by its listing on the National Register of Historic Places. An additional intent of these regulations is to maintain that character.

### Section 6.02 PERMITTED USES

A. **Principal Permitted Uses.** In the DC District, the following uses are permitted:

1. Any retail business whose principal activity is the sale or rental of merchandise within a completely enclosed building.
2. Music, art, dance, or photography studios or galleries.
3. Business service establishments performing services on the premises, such as computer, office machine and typewriter repair, copying and printing.
4. Banks, credit unions, and other financial institutions.
5. Grocery stores, convenience stores, meat markets, bakeries, and other similar establishments.
6. Offices, including medical and dental, business, professional and governmental.
7. Standard restaurants and carry-out restaurants, including coffee shops, with or without outdoor seating areas, subject to the following:
  - a) Pedestrian circulation and access to building entrances (both on and off site) shall not be impaired.
    - 1) A clear path with a minimum width of six (6) feet leading to the entrance to the establishment shall be maintained free of tables and other encumbrances.
    - 2) A minimum of five (5) feet of clear sidewalk space shall be maintained between the curb and any outdoor seating area.
    - 3) Any use of the public right-of-way shall also require Village Council approval.
  - b) The outdoor seating area shall be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Preparation of food and beverages is prohibited in the outdoor seating area.

- c) Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural character of the building, subject to Planning Commission approval.
- 8. Health clubs and spas.
- 9. Personal service establishments, including beauty and barber shops, shoe repair, tailors, self-service laundries, retail dry cleaning establishments and other similar uses.
- 10. Any service establishment of an office, showroom, or workshop nature within a completely enclosed building, such as a decorator, upholsterer, caterer, exterminator, and similar establishments that require a retail adjunct.
- 11. Municipal buildings, facilities and uses, parks, parkways and other open spaces for the public use and/or enhancement of this district.
- 12. Cultural facilities.
- 13. Places of worship.
  - a) The lot location shall be such that at least one (1) property line abuts a collector street, intermediate thoroughfare, or major thoroughfare. All ingress and egress to the lot shall be directly onto said street.
  - b) Off-street parking that abuts a residential district shall be screened in accordance with the requirements in Section 15.02.
- 14. Attached single-family or multiple-family dwelling units, subject to the design requirements listed in Section 6.03.D.
- 15. Other uses similar to the above as determined by the Planning Commission.
- 16. Bars and entertainment restaurants occupying an entire freestanding building that contains no other uses or use areas, located on a lot that does not directly abut any residentially zoned (RV or RM) property.

**B. Permitted Uses After Special Land Use Approval.** In the DC District, the Planning Commission may permit the following uses in accordance with the procedures and discretionary standards of Section 19.03 and the standards below:

- 1. Public utility buildings (telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards) only when operating requirements necessitate locating in the district to serve the immediate vicinity and subject to the following requirements:
  - a) No outside service or storage yards shall be permitted.
  - b) All such uses shall be located in a building, which shall be at a scale and have an exterior appearance compatible with the surrounding area.
  - c) All lines serving such sites shall be underground. Overhead transmission lines and tower structures are expressly prohibited.
  - d) Buildings shall be designed to be compatible with applicable design standards listed in Section 6.03.C, below.
- 2. Commercial parking garages.
- 3. Veterinary hospitals and clinics, subject to all principal use and activities being conducted within an entirely enclosed main building.
- 4. Funeral homes and mortuary establishments, subject to the following requirements:

- a) The lot shall be arranged so that adequate off-street assembly area is provided for vehicles in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
  - b) The site shall be so located as to have at least one (1) property line abutting a major thoroughfare. All ingress and egress for the site shall be designed so as to not create adverse impacts on neighboring land uses.
  - c) Points of ingress and egress for the site shall be designed to minimize possible conflicts between traffic on adjacent thoroughfares and funeral processions, visitors, and/or traffic.
  - d) A caretaker's residence may be provided within the main building of the mortuary establishment.
  - e) Loading and unloading areas used by ambulances, hearses, or other such service vehicles shall be obscured from all residential view with a decorative masonry wall six (6) feet in height or other screening acceptable to the Planning Commission.
  - f) Crematories shall not be permitted.
- 5. Assembly halls, concert halls, clubs and similar places of assembly or entertainment when conducted within completely enclosed buildings. The operation of such facilities shall not cause adverse impacts to neighboring uses from noise, traffic, crowds, access locations or other characteristics of the use.
  - 6. Bars and restaurants with alcohol service, subject to conditions established by the Planning Commission for the property and proposed use that are designed to avoid, minimize or control adverse off-site impacts to lawful adjoining or nearby uses from noise, hours of operation, foot and vehicle traffic, maximum permitted occupancy, the nature, number and location of devices that emit sound such as speakers and televisions, and the nature of entertainment and other activities associated with and expected from the proposed use.
  - 7. Wireless communication facilities, only as may be permitted under the provisions of Section 13.25.
- C. **Permitted Accessory Uses and Structures.** Accessory buildings, structures or uses customarily incidental to any of the principal permitted uses in the DC District.

## Section 6.03 DEVELOPMENT STANDARDS

- A. **Site Plan Review.** Site plan review and approval is required for all uses in the DC District in accordance with the requirements of Article 19 of this Ordinance.

However, a change of a use permitted by right within an existing building to another use permitted by right, may be permitted without submission of a full site plan in accordance with the requirements of Section 19.02.B

- B. **Area, Height, Bulk and Placement Requirements.** Buildings structures and uses in the DC District are subject to the area, height, bulk and placement requirements of Article 12, Schedule of Regulations.

The following table summarizes the regulations in Article 12.

Maximum Building Height <sup>1</sup> .....	36 ft.
Maximum Setbacks	
Front .....	10 ft.
Side.....	10 ft.
Rear .....	0 ft.
Side Street .....	10 ft.

Maximum first floor area per building..... 20,000 sq. ft.

- <sup>1</sup> Building height may be increased to a maximum of 42 ft. subject to special land use review and approval. The number of stories shall not exceed three (3).

C. **Commercial, Office, or Mixed-Use Building Design Standards.** In order to maintain and enhance the historic character of the Village Downtown, the following design standards shall apply to all new construction or the substantial reconstruction or rehabilitation of commercial, office, or mixed-use buildings in the DC District.

Recognizing that an existing building may not be able to comply with all of the following standards the Planning Commission may permit modifications, subject to its determination that the spirit and intent of the DC District is met, the overall historic character of the Downtown is not harmed, and that there is reasonable compliance. Any proposed activity requiring site plan or special land use approval shall require compliance with the following standards:

1. **Architectural Character.** New buildings and expansion and/or alteration of existing buildings in or adjacent to existing developed areas shall be compatible with and/or enhance the established historic architectural character of such areas by using a design that is complimentary. Compatibility may be achieved through techniques related to roof lines, building mass, outdoor spaces, relationships to the street, window and door pattern, and/or the use of building materials.
2. **Scale and Mass.**
  - a) In granting special land use approval for a building height increase in the DC District, the Planning Commission shall consider the compatibility of the additional height with the surrounding area, and may require building design features, greater setbacks, and other measures to ensure appropriate transitions.
  - b) For sites that abut Broadway from Shadbolt south to M-24, and Flint Street from Anderson west to Lapeer Street, all new construction shall be a minimum of two (2) stories in height or have the appearance of being two (2) stories in height.
3. **Entryways.**
  - a) All buildings must have a primary entrance facing the street frontage on a front façade. Primary entrances should be highlighted through the incorporation of architectural features such as canopies, awnings, porticos, raised cornice parapets over the doors, arches, large windows, or architectural details such as tile work and moldings that are integrated into the building structure and design.
  - b) Entrances shall be designed so that the door does not encroach or swing out into a public right-of-way.
4. **Windows.**
  - a) Windows shall cover not less than 50% nor more than 75% of the first floor front façade facing a street, and not less than 30% or more than 50% of the front façade(s) of upper floor(s) facing a street.
  - b) Upper story windows shall have a vertical orientation, with no less than a 2:1 height-to-width ratio. Window separation into a vertical orientation shall be accomplished through the use of architectural elements.
  - c) First floor windows shall be raised a minimum of two (2) feet above the sidewalk.
  - d) All windows on the first floor façade facing a street shall be clear glass. Mirrored, reflective, or tinted glass is prohibited. A maximum of 20% of the total first floor window area may be covered by opaque material, including any window signs.

**5. *Cornices.***

- a) All buildings shall have a prominent and well-defined cornice or fascia at the roofline that visually caps the building, giving the building a finished appearance.
- b) Rooftop equipment shall be screened from view off site by a parapet, cornice or similar feature.

**6. *Building Materials.***

- a) All exterior surfaces visible from a street, alley, or parking lot must present an attractive appearance, including architectural details found on the front façade of the building. Both street-facing facades on a corner building shall be treated as front facades with generally the same architectural detail.
- b) Building facades should be constructed of natural building materials such as brick, stone, or marble or durable building materials replicating such natural building materials. Metal and architectural cast foam may be used for building accents or architectural detailing.
- c) Vinyl and metal siding, EIFS, pre-cast panels, T-111, and industrial grade materials such as split face block and other similar building materials are prohibited as exterior materials in the DC District, unless for a specialized application and approved by the Planning Commission.

**7. *Awnings.***

- a) Cloth fabric awnings and canopies are encouraged on front facades, while vinyl and standing-seam metal canopies are discouraged.
- b) Awnings and canopies shall be mounted no higher than one (1) foot below the first floor cornice, and shall have a minimum clearance of 7 feet 5 inches above the sidewalk.
- c) The Planning Commission may allow for awnings and other rain-protective overhangs to project over adjoining sidewalks for a distance not to exceed eight (8) feet provided that the appearance is compatible with nearby properties and there are adequate construction safeguards.

**8. *Lighting.***

- a) All light fixtures shall be harmonious with the overall building design, and with existing street lighting in the DC District.
- b) Mercury vapor, laser and searchlights are prohibited.
- c) All light bulbs and fixtures must be non-glare.
- d) Recessed entryways must be illuminated but may not exceed an average of five (5) footcandles measured at grade level.

**9. *Use.***

- a) All business establishments shall be retail, service or entertainment establishments dealing directly with consumers. All goods produced on the premises shall be sold primarily from the premises where produced.
- b) All business, servicing or processing (except for off-street parking or loading) shall be conducted within completely enclosed buildings, except as a permitted temporary use.
- c) Storage of commodities shall be within buildings and shall not be visible to the public from a street or thoroughfare.
- d) There shall be no drive-in or drive-through service with any establishment.
- e) No automotive uses or other uses meant to primarily service motorized vehicles such as auto dealerships, car washes or gas stations shall be permitted.

- D. **Residential Building Design Standards.** The following design standards shall apply to all new construction or the substantial reconstruction or rehabilitation of buildings used for residential purposes in the DC District:
1. No building used solely for single family residential purposes may be located on a parcel with frontage on Broadway between Shadbolt south to M-24 or on Flint Street between Anderson west to Lapeer Street.
  2. In mixed-use buildings including a residential and a non-residential use, no residential dwelling unit shall occupy any portion of the floor at grade level. The non-residential uses may occupy any number of total floors; however, no non-residential use may be located on the same floor as a residential use, and no floor may be used for a non-residential purpose that is located above a floor used for a residential purpose.
  3. No garage shall extend in front of the front façade of the residential building in the DC District. Garages shall be located in rear yards, and screened from view from the street by buildings or dense landscaping.
  4. Building facades should be constructed of natural building materials such as brick, stone, wood or marble or durable building materials replicating such natural building materials. Metal and architectural cast foam may be used for building accents or architectural detailing.
  5. Vinyl and metal siding, EIFS, pre-cast panels, T-111, and industrial grade materials such as split face block and other similar building materials are prohibited as exterior materials in the DC District, unless for a specialized application and approved by the Planning Commission.
  6. Flat facades are not acceptable. Facades shall be articulated with vertical features to create variety and more human-scaled proportions. Decorative horizontal details may also be incorporated to define the floors of a building.
- E. **Lighting.** All pole lighting in the DC District shall be decorative, and shall comply with the requirements of Section 15.03.F.
- F. **Environmentally Sensitive Design.** Sites shall incorporate environmentally sensitive design to protect and enhance water quality, the terrestrial environment, community and environmental health, and the general public welfare. Consideration will be given during the site plan review process to encourage design and construction that furthers the implementation of recognized sustainable and green design, without detracting from the other purposes of this Zoning Ordinance.

Plans shall include, as determined feasible by the Planning Commission, reduction of impervious surfaces, shared parking, use of permeable paving, minimization of building footprint size, building orientation to optimize natural light penetration into the building, landscaping for groundwater recharge, tree preservation, use of native species in landscaping, green roof technology, and similar practices.

# Article 7.

## CC – Corridor Commercial District

### Section 7.01 STATEMENT OF PURPOSE

The CC, Corridor Commercial District is intended to provide for retail business and service uses needed to serve nearby residential areas and to provide for more diversified business and service uses that require access and exposure provided by a major road. Uses permitted in the Corridor Commercial district are generally auto-oriented, however, pedestrian access must be a consideration in site design.

### Section 7.02 PERMITTED USES

- A. **Principal Permitted Uses.** In the CC District, the following uses are permitted:
1. Offices, including medical and dental, business, professional and governmental.
  2. Veterinary hospitals and clinics. All principal use and activities shall be conducted within an entirely enclosed building.
  3. Banks, savings and loans, or other types of financial institutions.
  4. Personal service establishments, including beauty and barber shops, shoe repair, tailors, self-service laundries, dry cleaning establishments and other similar uses.
  5. Standard restaurants and carry out restaurants, including coffee shops, with or without outdoor seating areas, subject to the following:
    - a) Pedestrian circulation and access to building entrances (both on and off site) shall not be impaired.
      - 1) A clear path with a minimum width of six (6) feet leading to the entrance to the establishment shall be maintained free of tables and other encumbrances.
      - 2) A minimum of five (5) feet of clear sidewalk space shall be maintained between the curb and any outdoor seating area.
    - b) The outdoor seating area shall be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Preparation of food and beverages is prohibited in the outdoor seating area.
    - c) Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural characteristics of the building, subject to Planning Commission approval.
  6. Any retail business whose principal activity is the sale, rental or servicing of merchandise within a completely enclosed building.
  7. Grocery stores, convenience stores, meat markets, bakeries, and other similar establishments.
  8. Music, art, dance, or photography studios or galleries.
  9. Motels and hotels.



10. Municipal buildings, facilities and uses.
11. Health and physical fitness salons.
12. Public or private business schools or colleges.
13. Bars and entertainment restaurants occupying an entire freestanding building that contains no other uses or use areas, located on a lot that does not directly abut any residentially zoned (RV, RL or RM) property.
14. Other uses similar to the above as determined by the Planning Commission.

B. **Permitted Uses After Special Land Use Approval.** In the CC District, the Planning Commission may permit the following uses in accordance with the procedures and discretionary standards of Section 19.03 and the standards below:

1. Automobile gas stations, subject to the following requirements:
  - a) All gasoline pumps shall be located not less than 25 feet from any lot line, except a street side lot line where the minimum distance shall not be less than 15 feet.
  - b) Overhead pump canopies shall be set back a minimum of 20 feet from any road right-of-way line.
  - c) Where an automobile gas station directly abuts property located in any residential zone, (except where there is a public street between the two properties) screening shall be required along the adjoining lot line(s) in accordance with Section 15.02.E. Vehicle fueling areas shall be buffered from view from public rights-of-way using a low brick wall, landscaping, or combination thereof, as determined by the Planning Commission.
  - d) An automobile gas station shall be located on a lot having a frontage along the principal street of not less than 140 feet, and having a minimum area of not less than 14,000 square feet.
  - e) An automobile gas station located on a lot having an area of 14,000 square feet shall include not more than eight (8) gasoline pumps. An additional two (2) gasoline pumps may be included for each additional 2,000 square feet of lot area.
  - f) All driveways providing ingress to or egress from an automobile gas station shall be not more than 35 feet wide at the lot line. No more than one (1) curb opening shall be permitted for each frontage along any street. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the lot line.
  - g) There shall be no above ground storage of gasoline, diesel fuel, or oil except motor oil offered for sale in individual sealed containers.
  - h) No gasoline, oil, grease or flammable liquid shall be allowed to flow into or be placed in either the storm or sanitary sewer system. All automobile gas station proprietors and attendants upon being notified by the Village Manager or his designee of the presence of gasoline or volatile liquids in sewers shall cooperate in ascertaining the reason therefore. There shall be constantly maintained in good working order at least one (1), two and one-half (2-1/2) gallon fully charged, portable foam type fire extinguisher at each automobile service station.
  - i) The Planning Commission shall consider potential off-site impacts in its decision.
2. Automobile service stations, repair shops, service garages, muffler shops, and tire shops, subject to the following requirements:
  - a) Where an automobile service station directly abuts property located in any residential zone (except where there is a public street between the two properties), screening shall be required along the adjoining lot line in accordance with Section 15.02.E. All garage uses shall be adequately screened from other commercial and residential uses.

- b) An automobile service station shall be located on a lot having a frontage along the principal street of not less than 140 feet, and having a minimum area of not less than 14,000 square feet.
  - c) An automobile service station building housing an office and/or facilities for servicing, greasing and/or washing motor vehicles shall be located not less than 40 feet from any street lot line, and not less than 25 feet from any side or rear lot line adjoining a residentially zoned district.
  - d) All driveways providing ingress to or egress from an automobile service station shall be not more than 35 feet wide at the property line. No more than one (1) curb opening shall be permitted for each frontage along any street. No driveway or curb opening shall be located nearer than 20 feet to any corner or exterior lot line, as measured along the lot line.
  - e) Buildings shall be oriented so that open bays do not face onto adjacent thoroughfares unless screened by dense evergreen landscaping, or other means acceptable to the Planning Commission.
  - f) All lubrication equipment, motor vehicle working equipment, hydraulic hoists and pits shall be enclosed entirely within a building.
  - g) Parking areas for vehicles being repaired shall be screened from view by a six (6) foot high decorative masonry wall.
  - h) Outdoor storage or parking of vehicles other than private automobiles shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m.
  - i) No parts or equipment shall be placed, kept or stored outside at any time. New or used equipment or materials shall be stored within the principal structure or in an enclosed accessory storage area.
  - j) There shall be no above ground storage of gasoline, diesel fuel, or oil except motor oil in individual sealed containers that is offered for sale or used on the premises.
  - k) No tire recapping, auto dismantling or other similar activities whose external effects could extend beyond the property line shall be permitted.
  - l) No gasoline, oil, grease or flammable liquid shall be allowed to flow into or be placed in either the storm or sanitary sewer system. All automobile service station proprietors and attendants upon being notified by the Village Manager or his designee of the presence of gasoline or volatile liquids in sewers shall cooperate in ascertaining the reason therefore. There shall be constantly maintained in good working order at least one (1), two and one-half (2-1/2) gallon fully charged, portable foam type fire extinguisher at each automobile service station.
  - m) All combustible waste and rubbish, including crankcase drainings shall be kept in metal receptacles fitted with a tight cover until removed from the premises. Oil and grease shall not be allowed to accumulate on the floor. Sawdust shall not be kept in any automobile service station or place of storage therein, and sawdust or other combustible material shall not be used to absorb oil, grease, or gasoline.
  - n) All gasoline pumps shall be located not less than 25 feet from any lot line, except a street side lot line where the minimum distance shall not be less than 15 feet.
  - o) Overhead pump canopies shall be set back a minimum of twenty (20) feet from any right-of-way line.
  - p) The Planning Commission shall consider potential off-site impacts in its decision.
3. Motor vehicle wash establishments, subject to the following requirements:
- a) All washing activities must be carried on within a building.
  - b) Vacuuming activities may be carried out only in a rear yard or interior side yard and must be set back at least 50 feet from the property line of any adjoining residentially zoned or used property.

- c) Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building from an adjoining street or alley. All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash parcel itself. Streets and alleys shall not be used for maneuvering, parking or drying space for vehicles to be serviced by the automobile wash.
  - d) Exit lanes shall be sloped to drain water back to the wash building or to on-site drainage grates.
4. Sales and rental space for sale of new and used automobiles, motorcycles, travel homes, trailers, recreational vehicles, boats and mobile homes, with or without outdoor display, subject to the following requirements:
- a) The site shall have a minimum lot area of 30,000 square feet and shall have frontage on a major thoroughfare.
  - b) The front 15 feet of the front setback shall be landscaped and shall not be used for parking or for the display of vehicles.
  - c) All sales, display and circulation lot area shall be paved and shall be graded and drained so as to dispose of storm water within the site.
  - d) Ingress and egress points shall be located not less than 40 feet from any intersection (as measured from the nearest right-of-way line to the edge of said ingress or egress point).
  - e) No major repair or refinishing shall be done on the premises. Minor repair shall be conducted within a completely enclosed building.
5. Drive-through restaurants, drive-in restaurants, fast-food restaurants, and restaurants with play equipment, subject to the following requirements:
- a) The main and accessory buildings shall be set back a minimum of 60 feet from any adjacent residential zoned lot line.
  - b) Public access to the site shall be located at least 30 feet from any intersection (as measured from the nearest right-of-way line to the edge of said access).
  - c) Screening shall be provided adjacent to residential zoned districts as required by Section 15.02.E.
  - d) The drive-through service speaker location and/or amplification shall not cause noise that is audible from adjacent residences.
6. Electrical, heating, plumbing, or similar contracting establishments, including retail sales of related supplies, subject to the following requirements:
- a) Vehicles used in the normal course of business in providing the contracted service may be parked on the site only if such vehicles are parked behind the building so as to not be visible from the public right-of-way.
  - b) There shall be no outside storage except as expressly permitted by this Ordinance.
7. Theaters, dance halls, indoor skating rinks, bowling alleys, sports arenas, or other similar places of assembly, subject to the following requirements:
- a) Public access to the site shall be located at least 75 feet from any intersection (as measured from the nearest right-of-way line to the edge of said access).
  - b) The main and accessory buildings shall be located a minimum of 100 feet from any residential zone or use.
8. Bars and entertainment restaurants that do not entirely occupy a freestanding building or that are located on a lot that directly abuts residentially zoned (RV, RL or RM) property, subject to conditions established by the Planning Commission for the property and proposed use that are designed to avoid, minimize or control adverse off-site impacts to lawful adjoining or nearby uses from noise, hours of

operation, foot and vehicle traffic, maximum permitted occupancy, the nature, number and location of devices that emit sound such as speakers and televisions, and the nature of entertainment and other activities associated with and expected from the proposed use.

9. Adult regulated uses, subject to the restrictions listed in Section 13.29.
10. Public utility buildings (telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards) when operating requirements necessitate locating in the district to serve the immediate vicinity, subject to the following requirements:
  - a) No outside service or storage yards shall be permitted.
  - b) All such uses shall be enclosed either by a six (6) foot tall decorative masonry wall or by a fence with dense, evergreen screening landscaping provided to form an opaque screen to a height of six (6) feet at planting.
  - c) All lines serving such sites shall be underground. Overhead transmission lines and tower structures are expressly prohibited.
11. Drive-through facilities proposed in conjunction with any permitted or special approval use in the CC District, subject to screening in accordance with Section 15.02.E. being provided along all property lines abutting property that is zoned or used for residential purposes.
12. Wireless communication facilities, only as may be permitted under the provisions of Section 13.25.
13. Child care centers as defined in "Residential Care Facilities" in Section 2.02., subject to the following requirements:
  - a) No dormitory facilities are permitted. Such facilities shall not exceed 16 hours of operation during a 24-hour period. The Village may place limits on the operation of such facilities between the hours of 10:00 p.m. and 6:00 a.m.
  - b) An outdoor play area shall be provided, equipped and maintained on the premises which contains a minimum of 100 square feet of usable outdoor play area per child at the maximum licensed capacity of the facility (minimum total area of 1,500 square feet of outdoor play area per facility).
  - c) The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses. Fencing shall be decorative, as determined by the Planning Commission.
  - d) Adequate ingress, egress, and circulation shall be provided. Vehicles must be able to easily circulate within and through the site to a designated pick-up/drop-off area without obstructing traffic on nearby roads.
  - e) The facility shall not be located closer than 1,500 feet to any of the following:
    - 1) Another child care center or a group child care home.
    - 2) An adult foster care small group home or large group home.
    - 3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Michigan Public Health Code.
    - 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

C. **Permitted Accessory Uses and Structures.** Accessory buildings, structures or uses customarily incidental to any of the principal permitted uses in the CC District.

## **Section 7.03 DEVELOPMENT STANDARDS**

A. **Site Plan Review.** Site plan review and approval is required for all uses in the CC District in accordance with the requirements of Article 19 of this Ordinance. However, in a shopping center or multi-tenant building, a

change of a use permitted by right to another use permitted by right in the CC District may be permitted without submission of a full site plan in accordance with the requirements of Section 19.02.B.

- B. **Area, Height, Bulk and Placement Requirements.** Buildings structures and uses in the CC District are subject to the area, height, bulk and placement requirements in Article 12.00, Schedule of Regulations.

The following table summarizes the regulations in Article 12.00.

Maximum Building Height <sup>2</sup> .....	36 ft.
Minimum Setbacks	
Front.....	25 ft.
Side .....	-- <sup>1</sup>
Rear.....	-- <sup>1</sup>
Side Street.....	10 ft.
Maximum Lot Coverage .....	40%

<sup>1</sup> 20 ft. when adjacent to residentially zoned or used property

<sup>2</sup> Building height may be increased to a maximum of 42 ft. subject to special land use review and approval. (The number of stories shall not exceed 3.)

- C. **Environmentally Sensitive Design.** Sites shall incorporate environmentally sensitive design in order to protect and enhance water quality, the terrestrial environment, community and environmental health, and the general public welfare. Consideration will be given during the site plan review process to encourage design and construction that furthers the implementation of recognized sustainable and green design, without detracting from the other purposes of this Zoning Ordinance.

Plans shall include, as determined feasible by the Planning Commission, reduction of impervious surfaces shared parking, use of permeable paving, minimization of building footprint size, building orientation to optimize natural light penetration into the building, landscaping for groundwater recharge, tree preservation, use of native species, green roof technology, use of rain gardens and similar practices.

# **Article 8. Reserved**

# Article 9.

## MU – Mixed Use District

### Section 9.01 STATEMENT OF PURPOSE

The MU, Mixed Use District is intended to promote compatible combinations of commercial, office, service, and residential development along M-24 south of Paint Creek to serve as a gateway into the DC, Downtown Center District. Office, commercial, and retail development should be located along M-24, with residential land uses located along the Lake to buffer existing single-family neighborhoods from the impacts of non-residential uses and M-24.

Development in this district is intended to serve the nearby neighborhoods and is not intended to be highway-oriented in scale. Parking lots should not be exposed to view from M-24 or the Lake, but should be screened from these important frontages by buildings. Site design should maintain and enhance pedestrian and/or image connectivity to the Downtown area.

### Section 9.02 PERMITTED USES

- A. **Principal Permitted Uses and Structures.** In the MU District, the following uses are permitted subject to the standards listed in Section 9.03.C.
1. Banks, savings and loans, or other types of financial institutions.
  2. Any retail business whose principal activity is the sale, rental or servicing of merchandise within a completely enclosed building.
  3. Standard restaurants and carry-out restaurants, including coffee shops, with or without outdoor seating areas, subject to the following:
    - a) Pedestrian circulation and access to building entrances (both on and off site) shall not be impaired.
      - 1) A clear path with a minimum width of six (6) feet leading to the entrance to the establishment shall be maintained free of tables and other encumbrances.
      - 2) A minimum of five (5) feet of clear sidewalk space shall be maintained between the curb and any outdoor seating area.
    - b) The outdoor seating area shall be kept clean, litter-free, and with a well-kept appearance within and immediately adjacent to the area of the tables and chairs. Preparation of food and beverages is prohibited in the outdoor seating area.
    - c) Tables, chairs, planters, waste receptacles, and other elements of street furniture shall be compatible with the architectural characteristics of the building, subject to Planning Commission approval.
  4. Grocery stores, convenience stores, meat markets, bakeries, and other establishments whose principal activity is the sale of food not meant for consumption on the premises.
  5. Health clubs and spas.

6. Personal service establishments, including beauty and barber shops, shoe repair, tailors, self-service laundries, dry cleaning establishments and other similar uses.
7. Music, art, dance, or photography studios or galleries or similar uses.
8. Offices, including medical and dental, business, professional and governmental.
9. Publicly owned and operated buildings, libraries, parks and recreation facilities, municipal buildings, facilities and uses.
10. Single family and multiple family dwelling units, subject to the design standards of Section 9.03.C, when located above the ground story and subject to the ground story being only non-residential use.

**B. Permitted Uses After Special Land Use Approval.** In the MU District, the Planning Commission may permit the following uses in accordance with the procedures and discretionary standards of Article 19 and the standards below:

1. Public utility buildings (telephone exchange buildings, electric transformer stations and substations, and gas regulator stations, but not including service or storage yards) when operating requirements necessitate locating in the district to serve the immediate vicinity and subject to the following requirements:
  - a) No outside service or storage yard shall be permitted.
  - b) All such uses shall be enclosed either by a six (6) foot high decorative masonry wall or by a fence with dense, evergreen screening landscaping provided to form an opaque screen to a height of six (6) feet at planting.
  - c) All lines serving such sites shall be underground. Overhead transmission lines and tower structures are expressly prohibited.
2. Veterinary hospitals and clinics, subject to all associated activities being conducted within an entirely enclosed building.
3. Motels and hotels.
4. Drive-through restaurants, drive-in restaurants, fast-food restaurants and restaurants with play equipment, subject to the following requirements:
  - a) The principal and accessory buildings shall be set back a minimum of 30 feet from any adjacent residential zoned lot line.
  - b) Public access to the site shall be located at least 50 feet from any intersection (as measured from the nearest right-of-way- line to the edge of said access).
  - c) Screening shall be provided adjacent to residential districts and uses in accordance with Section 15.02.E.
  - d) The drive-through service speaker location and/or amplification shall not cause noise that is audible from adjacent residences.
5. Entertainment and recreational uses, including public or private lodges, community centers, and rentable halls, subject to the following requirements:
  - a) Setbacks greater than the district minimums may be required. All setbacks shall be reviewed by the Planning Commission for compatibility with adjacent land zoned or used for single family residential purposes. In order to mitigate potential impacts and achieve compatibility, the Commission may require landscaping, screening walls and fences, rearrangement of uses, greenbelts, and other means deemed necessary in its determination.
  - b) Whenever off-street parking areas are adjacent to land used or zoned for residential purposes, screening shall be provided in accordance with Section 15.02.E.



- c) Off-street parking shall be provided so as to accommodate not less than one-half (1/2) of the member families and/or individual members, or as modified by the Planning Commission.
- 6. Single family detached dwelling units, subject to the design standards listed in Section 9.03.C.
- 7. Places of worship, subject to the following conditions:
  - a) The lot location shall be such that at least one (1) property line abuts a collector street, intermediate thoroughfare, or major thoroughfare. All ingress and egress to the lot shall be directly onto said street.
  - b) Off-street parking which abuts a single family residential district shall be screened in accordance with Section 15.02.
- 8. Bed and breakfast facilities, subject to the following requirements:
  - a) One (1) parking space shall be provided for each guest sleeping room.
  - b) A bed and breakfast shall have a maximum of six (6) rooms available for rent.
  - c) No guest or patron shall stay on the premises for more than 14 consecutive nights.
  - d) The site shall be designed and operated so as to not have adverse impacts on the surrounding neighborhood.
- 9. Marinas, boat liveries and boat docks subject to the following requirements:
  - a) Docking space shall be limited to a maximum of one (1) boat per 15 feet of lake frontage.
  - b) The Commission may require landscaping, of immediate effect, including evergreens or similar plant material not less than eight (8) feet in height to mitigate potential negative visual impacts on adjacent properties.
  - c) A minimum of one parking space shall be provided for each slip or mooring space. Additional parking space lengths to accommodate boat trailers and related equipment shall be provided for marinas with a boat launch.
  - d) Repair of dismantled equipment including, but not limited to boats and motors, and storage of boats, boat parts, racks, lumber, and marine related equipment must be in a completely enclosed building when not in water.
  - e) Hours of operation may be limited by the Planning Commission to avoid negative impacts of noise and glare, if the use is located adjacent to residentially zoned property.
  - f) A permit to establish, maintain or operate a marina shall be secured from the Michigan Department of Environmental Quality, in conjunction with any approval.
- 10. Bars and entertainment restaurants, subject to conditions established by the Planning Commission for the property and proposed use that are designed to avoid, minimize or control adverse off-site impacts to lawful adjoining or nearby uses from noise, hours of operation, foot and vehicle traffic, maximum permitted occupancy, the nature, number and location of devices that emit sound such as speakers and televisions, and the nature of entertainment and other activities associated with and expected from the proposed use.
- 11. Adult regulated uses, subject to the restrictions listed in Section 13.29.
- 12. Wireless communication facilities, only as may be permitted under the provisions of Section 13.25.
- 13. Child care centers and group child care homes, as defined in "Residential Care Facilities" in Section 2.02., subject to the following requirements:

- a) No dormitory facilities are permitted. Such facilities shall not exceed 16 hours of operation during a 24-hour period. The Village may place limits on the operation of such facilities between the hours of 10:00 p.m. and 6:00 a.m.
- b) An outdoor play area shall be provided, equipped and maintained on the premises which contains a minimum of 100 square feet of usable outdoor play area per child at the maximum licensed capacity of the facility (minimum total area of 1,500 square feet of outdoor play area per facility).
- c) The outdoor play area shall be fenced in or screened by a heavily planted greenbelt from any abutting residential uses. Fencing shall be decorative, as determined by the Planning Commission.
- d) Adequate ingress, egress, and circulation shall be provided. Vehicles must be able to easily circulate within and through the site to a designated pick-up/drop-off area without obstructing traffic on nearby roads.
- e) The facility shall not be located closer than 1,500 feet to any of the following:
  - 1) Another group child care home or child care center.
  - 2) An adult foster care small group home or large group home.
  - 3) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Michigan Public Health Code.
  - 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Michigan Department of Corrections.

C. **Permitted Accessory Uses and Structures.** Accessory buildings, structures or uses customarily incidental to any of the principal permitted uses in the MU District.

## Section 9.03 DEVELOPMENT STANDARDS

- A. **Site Plan Review.** Site plan review and approval is required for all uses in the MU District in accordance with the requirements of Article 19 of this Ordinance. However in a shopping center or multi-tenant building, a change of a use permitted by right to another use permitted by right in the MU District may be permitted without submission of a full site plan in accordance with the requirements of Section 19.02.B.
- B. **Area, Height, Bulk and Placement Regulations.** Buildings and uses in the MU District are subject to the area, height, bulk and placement requirements in Article 12, Schedule of Regulations.

The following table summarizes the regulations in Article 12.

Maximum Building Height <sup>2</sup> .....	36 ft.
Minimum Setbacks	
Front (minimum) .....	10 ft.
Front (maximum) .....	25 ft.
Water .....	25 ft.
Side <sup>1</sup> .....	0 ft.
Rear .....	25 ft.
Side Street .....	10 ft.
Maximum Lot Coverage .....	50%

<sup>1</sup> 20 ft. if abutting a residential district

<sup>2</sup> Building height may be increased to a maximum of 42 ft. subject to special land use review and approval. The number of stories shall not exceed 3.

C. **Design Standards.** The following design standards shall apply to all new construction in the MU District:

**1. Site Layout/Uses.**

- a) It is the intent of the MU district to promote nonresidential (commercial, office and service) land uses along M-24, and residential land uses to buffer the Lake and existing residential neighborhoods from the impacts of nonresidential commercial development and M-24.
- b) New development should be walkable, and should include pedestrian connections to the Downtown Center district as well as nearby neighborhoods.
- c) Drive-in or drive-through establishments shall not be permitted on sites that have frontage on the Lake.

**2. Parking.**

- a) The minimum number of parking spaces required on a site shall be the sum of all of the individual uses as required in Article 14.
- b) Parking areas should be located in the middle of sites, and must be screened from view from M-24 and/or the Lake by buildings and/or landscaping.

**3. Building Design.**

- a) All buildings along the street frontage of the parcel shall have a primary entrance or entrances on the façade facing the street. All primary entrances must be accessible to pedestrians. Primary entrances should be highlighted through the incorporation of architectural features such as canopies, awnings, porticos, raised cornice parapets over the doors arches, large windows, or architectural details such as tile work and moldings that are integrated into the building structure and design.
- b) Building materials used on exteriors of new buildings shall be appropriate for the character and size of the proposed building, and shall complement the materials used on surrounding buildings and in the Village Downtown. Brick, stone, integrally colored architectural block are preferred building materials. Clapboard materials such as cement siding ("Hardy Plank" or similar) and shake shingles are encouraged as accent building materials. E.I.F.S. and metal may be acceptable as accent materials only, and should not comprise more than 20% of the wall area of any façade. Vinyl or metal siding is discouraged.

4. **Maximum First Floor Area.** The maximum first floor area for any use, including freestanding structures and any individual tenant in a multi-tenant retail or office facility in the MU district shall be 12,500 square feet.

5. **Common Area.** All developments in the MU district shall provide a minimum of 10% of the lot area as site amenities over and above the minimum landscape and open space requirements of this Ordinance. Such site amenities may be in the form of pocket parks, green areas, plazas, pedestrian walkways, expanded landscape areas and buffers, cross access provisions, decorative water features and similar features in the determination of the Planning Commission.

6. **Cross Access.** All developments in the MU district shall permit pedestrian and vehicle cross access for adjacent MU sites. A cross-access agreement shall be submitted, pursuant to Section 13.17. Cross access connections for vehicles should generally be located in parking areas.

**7. Residential Dwelling Units.**

- a) Single family dwelling units shall have a minimum floor area of 900 square feet.
- b) Residential density in areas of the site dedicated solely to residential land uses shall be as permitted in the RM District, based on that area of the site dedicated solely to residential use.

- c) Dwelling units proposed on the second floor of a mixed-use building shall be permitted, not to exceed ten (10) dwelling units per acre of lot area.

**8. *Pedestrian Connectivity.*** Sidewalks and other pedestrian connections shall be provided within and between sites in the MU district. Pedestrian connections should also be provided between developments in the MU district and the Downtown Center district.

- D. *Environmentally Sensitive Design.*** Sites shall incorporate environmentally sensitive design in order to protect and enhance water quality, the terrestrial environment, community and environmental health, and the general public welfare. Consideration will be given during the site plan review process to encourage design and construction that furthers the implementation of recognized sustainable and green design, without detracting from the other purposes of this Zoning Ordinance.

Plans shall include, as determined feasible by the Planning Commission, reduction of impervious surfaces, shared parking, use of permeable paving, minimization of building footprint size, building orientation to optimize natural light penetration into the building, landscaping for groundwater recharge, tree preservation, use of native species in landscaping, green roof technology, and similar practices.

# Article 10.

## HD – Height Overlay District

### **Section 10.01 STATEMENT OF PURPOSE**

The HD, Height Overlay District is to allow for buildings greater than three (3) stories in height in specific areas, as established below in Section 10.02. The Height Overlay District is intended to establish uniform regulations applicable to the form and use of buildings which are compatible with the desired character of the M-24 Corridor and downtown Lake Orion and which protect and enhance the long-term stability of the district. Recognizing the importance of a viable downtown core and lakefront corridor with well-planned, quality development, and further recognizing the importance of the preservation of lake views, the Height Overlay District is intended to provide for a balance between existing and new development and to establish a consistent set of standards for the design and appearance of taller structures to improve and enhance the overall visual character of the community. The Height Overlay District is also intended to maintain a compatible transition between surrounding historic and cultural resources, existing and proposed buildings, and to protect and preserve natural areas.

### **Section 10.02 BOUNDARIES ESTABLISHED**

The boundaries of the HD, Height Overlay District shall be as shown on the official Zoning Map of the Village of Lake Orion which accompanies this Ordinance.

### **Section 10.03 PERMITTED USES**

The Planning Commission may permit uses as designated in the corresponding underlying zoning district (i.e., CC, Corridor Commercial; DC, Downtown Center; and MU, Mixed Use) provided that uses requiring special land use are processed in accordance with the procedures and discretionary standards of Section 19.03.

### **Section 10.04 SPECIAL LAND USE APPROVAL**

Further recognizing that shoreline development is a unique form of growth, the importance of preserving and protecting the waterfront views of Lake Orion, a defining characteristic of the Village, and to minimize negative impacts of development on the Village's remaining open space, the Height Overlay District shall be considered a special land use only on the west side of M-24. Proposed developments within the Height Overlay District on the west side of M-24 must also be processed in accordance with the procedures and discretionary standards of Section 19.03.

### **Section 10.05 DEVELOPMENT STANDARDS**

When reviewing any proposed building within the Height Overlay District, the Village shall find the proposed location for the structure, its form, and its relationship to adjacent land uses and buildings meets all of the following criteria:

- A. Shall be of such orientation to adjacent land uses and buildings as to be context sensitive in design.
- B. Shall incorporate building height modulation to reduce the building scale at the street edge(s) or lakefront (where determined), with the fourth (4) story stepped back a minimum of ten (10) feet from the main building face(s).
- C. Shall incorporate architectural features, including, but not limited to: arches, arcades, porticos, repeating window patterns, and cornices. Blank walls facing streets or public areas shall be prohibited.
- D. Shall have a discernible base and cap that are clearly defined by horizontal elements along the bottom and top of the building.
- E. Screening shall be compatible with the architectural design of the building.

# Article 11.

## Planned Unit Development

### Section 11.01 INTENT

The provisions of this Article provide enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments (PUD). It is the intent of this Article to authorize the use of PUD regulations to:

- A. Encourage innovation in site planning, design, and development.
- B. Encourage the mixing of commercial, educational, and recreational facilities conveniently located in relation to housing.
- C. Conserve natural features and encourage the provision of open space.
- D. Provide flexibility from the standards of this Zoning Ordinance to encourage high-quality design that provides a greater benefit to the users and the community.
- E. Provide other recognizable benefits beyond those afforded by development which adheres to the minimum requirements of the underlying zoning classification applicable to the property.
- F. Establish the standards and the review process for planned unit developments in order to ensure due process and equal treatment.

### Section 11.02 QUALIFYING CONDITIONS

The PUD is an optional method of development that may be permitted in any location and zoning district in the Village, only after review and recommendation by the Planning Commission and discretionary approval of the Village Council finding that the following criteria will be met:

- A. **Contiguous:** All land included in a PUD shall be contiguous. Land shall be considered contiguous when separated by a public or private street/alleyway, or public land.
- B. **Benefits:** The PUD shall provide at least three (3) of the recognizable and substantial benefits below that would not be possible using the standards of the underlying zoning district or this Ordinance:
  - 1. **Feature Preservation:** Preservation of significant natural or historic features, including protected wetlands, woodlands, trees, and scenic vistas.
  - 2. **Mixed-Use:** A complementary mixture of zoning uses or a variety of housing types.
  - 3. **Open Space/Recreation:** Useable and well-defined common open space for passive or active recreational use. Noncontiguous open space is permitted but in no case shall the project open space be less than ten (10%) percent of the total site area. Such open space shall include amenities, including but not limited to gardens, dining/gathering areas, trails/pathways, art installations, playgrounds, among others.

4. **Mitigation.** Interventions that minimizes the negative impacts of development, including but not limited to green infrastructure as provided in Section 6.03(F).
5. **Redevelopment.** The PUD involves adaptive re-use or redevelopment of a building or site through which creative design addresses unique site limitations.
- C. **Impact.** In relation to the underlying zoning, the proposed type and density of use shall not result in an unreasonable increase in the use of public services, facilities and utilities, and shall not place an unreasonable burden upon the subject and/or surrounding land and/or property owners and occupants and/or the natural environment.
- D. **Master Plan.** The proposed development shall be consistent with the goals and objectives of the Master Plan of the Village and shall be consistent with the intent and spirit of this Ordinance.
- E. **Unified Control.** The proposed development shall be under single ownership and/or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall prohibit a transfer of ownership and/or control until project completion and upon a 90-day notice to the Village Manager.

## Section 11.03 PROJECT DESIGN STANDARDS

- A. **Permitted Uses or Combination of Uses.** Any land use authorized in this Ordinance may be included in a PUD as a principal or accessory use, subject to adequate public health, safety and welfare protection mechanisms being designed into the development as provided in this Article.
- B. **Density.** Permitted density for projects shall be based on the type of uses proposed, in accordance with the following standards. Residential uses shall be considered up to a maximum density of 1.5 times the units per gross acre or fraction thereof authorized in the residential underlying zoning district in which the property is situated. For purposes of this calculation, gross acreage shall include all areas to be used for residential purposes, including off-street parking, and all open space devoted exclusively for residential use or for natural resource preservation, excluding submerged bottom land of lakes and ponds.
- C. **Project Design Standards.**

1. **Dimensional Standards.** The regulations applicable to lot size, lot width, lot coverage, setbacks, parking and loading, and other Ordinance requirements for uses in a PUD shall follow the regulations in the underlying zoning district, as follows:

Proposed PUD Use	Applicable Zoning Regulations
Single-family detached	Most applicable single-family district
Single-family attached	Multiple-family district
Multiple-family	Multiple-family district
Commercial	Most applicable commercial district
Mixed-Use	Mixed-use district

2. **Circulation, Parking and Loading.** Parking in a PUD shall be required for each use according to the requirements of Article 14 Parking and Loading. The Planning Commission shall have the authority to recommend to the Village Council modifications to the minimum number of parking spaces based on traffic and parking impact studies. Shared parking and banked parking may be permitted subject to compliance with the standards of Article 14.
3. **Screening.** Nonresidential uses, including, without limitation, parking and vehicular traffic ways, shall be screened. Such buffering shall be provided for residential units located within the same PUD as the nonresidential uses, as well as for residential units located on adjacent parcels. It is recognized that this provision may have limited application to multi-use buildings.



4. **Natural Features.** The development shall be designed so as to promote the preservation of natural features. In the interpretation of this provision, natural resources and natural features may be altered only if it is in the public interest to do so and sufficient mitigation is provided, taking into account the provisions and standards of Act 451 of the Public Acts of 1994, as amended, the Natural Resources and Environmental Protection Act, including the Michigan Environmental Protection Act in Part 17.
  5. **Public Services.** The proposed PUD shall not exceed the capacity of existing and available public services, including utilities, public roads, police, and fire protection services unless the project proposal contains an acceptable plan for providing necessary services or evidence and assurances that such services will be available by the time the PUD is completed, as documented in reports to the Commission by applicable parties, including the Village Engineer, Building Official, Police and Fire Departments, etc.
  6. **Additional Considerations.** The Village Council shall take into account additional considerations as relevant to a particular project.
- D. **Modifications.** To encourage flexibility and creativity in development, modifications from compliance with the regulations in this Ordinance may be granted by the Village Council after recommendation from the Planning Commission as part of the approval of the Preliminary PUD. However, the density standards of this Ordinance shall not be modified.

## Section 11.04 REVIEW AND APPROVAL PROCESS

Planned unit developments shall be subject to and comply with the following review and approval process:

- A. **Pre-Application Meeting and Review.** The Village offers an optional Pre-Application Review that allows the applicant to confer with the Village Manager and Village Planner to obtain information and guidance regarding land development regulations, the Master Plan, and the application process prior formal application. Sufficient information regarding the proposed uses, density, intensity, road layouts, design concepts, and the relationship of the proposed PUD to the surrounding area must be provided. Additional parties may be involved, as needed based on the scope of the project, including but not limited to: Fire and Police Departments, Department of Public Works, Oakland County, Building Official, Village's Engineer, and the DDA Director.
- B. **Eligibility Review.**
  1. **Application.** Submittal of application and concept plan showing or containing the information and demonstrating entitlement to qualify for PUD consideration under the criteria in Section 11.02.
  2. **Planning Commission Review.** After reviewing and considering the eligibility application and concept plan at a scheduled meeting, the Planning Commission shall make a recommendation to the Village Council on whether the proposed development should be found to satisfy the qualifying criteria in Section 11.02.
  3. **Village Council Decision.** After receiving the Planning Commission's recommendation, at a scheduled meeting the Village Council shall approve or deny the use of the PUD option for the proposed development based on the criteria in Section 11.02. Reasons for a decision shall be stated and included in the meeting minutes. All approvals shall be conditioned on and subject to the Village Council's later approval of a PUD preliminary plan and the developer's acceptance and compliance with any conditions of that approval.
- C. **Preliminary Plan Review.**
  1. **Submittal.** The applicant shall submit a complete PUD application (Section 11.05: PUD Preliminary Plan), applicable phasing plan, and appropriate fees to the Village. Within 30-days of receipt of a complete submission, a public hearing shall be held with the Planning Commission.

2. **Planning Commission Public Hearing.** A public hearing shall be held by the Planning Commission on the proposed PUD Preliminary Plan in order to acquaint the public and adjoining property owners with the proposal prior to furnishing of detailed plans and specifications by the applicant.
3. **Planning Commission Action.** Following the public hearing, the Planning Commission shall, within 30-days, and after reviewing and considering the factors outlined in this Article, the relationship of the proposed PUD to the intent and purpose of this Ordinance, and compliance with it, recommend to the Village Council approval, disapproval, or approval with conditions. Additional time may be granted by the Planning Commission before action is taken should the Commission request additional information such as detailed traffic or environmental studies.
4. **Village Council Action.** Upon receipt of the recommendations of the Planning Commission, the Village Council consider the proposed PUD. Village Council shall first set a public hearing at the next available meeting, accounting for noticing requirements. A public hearing shall then be held by the Village Council, and the Council shall review the application, submittals, and recommendations.
  - a) The Village Council shall first decide if the proposal remains eligible for use of the PUD option.
  - b) If the proposal remains eligible for use of the PUD option, the Village Council shall approve, approve with conditions, or deny the PUD preliminary plan and any phasing plan proposed, and shall record the decision.
5. **PUD Contract.** Immediately following the approval or conditional approval of the PUD Preliminary Plan, the Village Council should direct the preparation of the PUD Contract for signature by the applicant, developer, and owners of the property.
6. **Oakland County Register of Deeds Affidavit.** Upon approval of the PUD Preliminary Plan and PUD contract by the Village Council, the applicant shall record a Zoning Administrator approved affidavit with the Oakland County Register of Deeds containing the legal description of the entire project, specifying the dates and nature of those approvals, and declaring that all future development of the PUD property is required to be carried out in accordance with the approved PUD Contract and the final development plan unless those approvals are terminated, amended or revoked as provided in this Article.
7. **Approval Period.** PUD Preliminary Plan approval by the Village Council shall grant the applicant a period of one (1) year from that approval to submit a complete Final Development plan to the Planning Commission for review and a period of two (2) years from PUD Preliminary Plan approval to obtain Final Development Plan approval from the Planning Commission. Failure to meet either of these deadlines shall result in the PUD Preliminary Plan approval and PUD option eligibility determination being terminated.
8. **Extensions.** One (1) year extensions of the deadlines for Final Development Plan submission and/or approval may be granted by the Village Council upon written request by the applicant before expiration of the approval period and upon showing of good faith and effort by the applicant.
9. **Other Approvals.** PUD preliminary plan approval shall not constitute approval of a preliminary plat, final plat, final site plan, or site condominium plan.

#### D. Final Development Plan Review.

1. **Submittal.** A complete Final Development Plan must be submitted within one (1) year of approval of the PUD Preliminary Plan.
2. **Planning Commission Action.** The Planning Commission shall review the Final Development Plan for conformance with the requirements of this Article 11 and any conditions of PUD Preliminary Plan Review and PUD Contract approval to approve, approve with conditions, or deny the proposed Final Development Plan. The basis for decision, along with any conditions of approval, shall be recorded in the meeting minutes.

#### E. Construction Plan Review.

1. Construction plans for site work and utilities shall be submitted within six (6) months of approval of the final development plan.
2. **Commencement of Construction.** Construction shall be lawfully commenced within one (1) year following approval of a final development plan for a PUD, or within one (1) year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued.

Each phase of the project shall be commenced and completed according to the schedule approved as part of the phasing plan at the time of PUD preliminary plan approval. If construction is not in compliance with the schedule, the approval of the final development plan and all building and other Village permits for the project shall be suspended and those and all other approvals under this Article may be terminated by the Village unless an extension for a specified period is granted by the Village Council upon good cause shown in a request made in writing to the Village Council prior to the expiration of the initial period. Moreover, in the event a final development plan approval has expired, a new application shall be required, and shall be reviewed in light of the then existing and applicable law and ordinance provisions.

## Section 11.05 REQUIRED PLAN INFORMATION

### A. Preliminary Plan.

1. **Required Information.** Application for a preliminary PUD plan shall contain sufficient information to evaluate the proposed PUD's consistency with Section 11.02, Eligibility Criteria, including the following information:
  - a) A metes and bounds survey and legal description of the acreage comprising the proposed PUD, including a disclosure of mineral rights ownership.
  - b) Topographic survey, including natural and manmade features at a scale of 1"=50', with a contour interval not to exceed 2-feet.
  - c) Site analysis, which identifies the character, structure and potential of the site as it relates to this Article, including areas adjacent to the subject property and sufficient information about the properties located within 100-feet of the subject site so that a determination can be made by the Planning Commission and Village Council as to the impact of the proposed PUD on the general area in which it is located. The analysis shall include as a minimum the following:
    - 1) Contiguous Land Uses. Indicate type and impact on adjoining lands, direction, and distance to community facilities.
    - 2) Existing Conditions. Structures, utilities, and circulation.
    - 3) Soils. Depth of topsoil and types of soils.
    - 4) Vegetation. Locate and identify existing tree masses, specimen plant material and type of ground cover.
    - 5) Drainage. Natural watershed (direction), drainage swales and swamp areas.
    - 6) Special Features. Lakes, streams, ponds, floodplains and wetlands, dramatic views and significant natural, archeological, historical, or cultural features.
  - d) A preliminary development plan illustrating the general character of the proposed PUD. The preliminary development plan shall identify the following items of information:
    - 1) The date, north arrow and scale. The scale shall be not less than 1"=20' for property under 3-acres and at least 1"=100' for those 3-acres or more.
    - 2) The name, firm address, and professional seal of the individual responsible for the preparation of the site plan. The site plan shall be sealed by one of the following professionals registered in the State of Michigan: Registered Architect, Registered Land Surveyor, Registered Civil Engineer, or Registered Landscape Architect. The architectural plans of the buildings shall be

- prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to existing structures may be prepared by the builder or contractor.
- 3) The name and address of the property owner or petitioner, and proof ownership or option to purchase.
  - 4) A general location sketch.
  - 5) Legal and common or popular description of the subject property.
  - 6) All lot and/or property lines and setback lines with dimensions, including building setback lines on corner lots.
  - 7) The location and height of all existing and proposed structures on and within 100-feet of the subject property to scale.
  - 8) Existing and proposed water, sanitary sewer and storm drainage locations, and dimensions.
  - 9) The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas including total number of parking spaces (with dimensions of a typical parking space), loading areas, recreation areas, common use areas, and areas to be conveyed for public use and purpose.
  - 10) The location, pavement width and right-of-way width of all abutting roads, streets, alleys or easements.
  - 11) The existing zoning of all properties abutting the subject property.
  - 12) The general location of all existing and proposed landscaping and vegetation, trash receptacle areas, and the location, height and type of existing and proposed fences and walls.
  - 13) The number of residential units, the floor area of non-residential uses, the approximate area of land to be occupied by each land use.
  - 14) The type of use(s) proposed, general building masses including height and relationship to abutting uses, vehicular and pedestrian circulation, parking, open space, buffer areas, and any special features. The plan shall be of sufficient detail to define the proposed location of buildings, parking, interior circulation, landscape areas and method of managing stormwater, and sanitary sewer and water facilities.
  - 15) Conceptual building elevations identifying the general character of the proposed buildings.
  - 16) Proposed master deed or covenants and restrictions and association bylaws, if applicable.
  - 17) Proposed phasing for development of the PUD.
  - 18) Any requested modifications to the requirements of this Zoning Ordinance that would otherwise be applicable to the subject site.
- e) A proposed PUD Contract setting forth the conditions upon which approval of the PUD is based. After review and approval by the Village Council, the contract shall be entered into between the Village, the applicant/developer and owners of the property if different, prior to final development plan approval. Said contract shall provide:
- 1) The manner of ownership of the land, including mineral rights.
  - 2) The manner of the ownership and of the dedication of the common open space or parks.
  - 3) The restrictive covenants required for membership rights and privileges, maintenance and obligation to pay assessments for the common open land, parks or other features.
  - 4) The stipulations pertaining to commencement and completion of the phases of the development, to construction, installation, repairs and maintenance of improvements, to obligations for payment of any costs, expenses or fees planned or reasonably foreseen, and to the manner of assuring payment of obligations.
  - 5) Provisions for the Village to effect construction, installation, repairs and maintenance and use of public utilities, storm and sanitary sewers and drainageways, water, streets, sidewalks and lighting, and of the open land and improvements thereon, and any other conditions of the plan, and the manner for the assessment and enforcement of assessments for the costs, expenses, or fees incidental thereto against the applicant, or the future owners or occupants of the PUD.
  - 6) The site analysis, preliminary plan and development plan shall be incorporated by reference and attached as an exhibit.
  - 7) Any approved modifications shall be enumerated.

- 8) Provisions reasonably and necessarily intended to affect the intent of this Article, or the conditions of the approval of the plan for the public health, safety, morals, and general welfare of the Village.
  - 9) Provisions for amendments to the layout of the PUD and associated site improvements following final approval of the development plan, including definitions of what constitutes a minor or major amendment, and the Village approval authority and process for approving minor and major amendments.
- f) f. Other pertinent information necessary to enable the Planning Commission and Village Council to make a determination concerning the desirability of applying the provisions of this Article

## **B. Final Development Plan.**

1. ***Final Development Plan Requirements.*** A PUD final development plan shall contain the same information required for final site plan approval (Section 19.02.D) or final preliminary plat approval, as the case may be. The final development plan shall also meet all conditions of Village Council approval, and any final requirements determined necessary by provisions of this Ordinance and other applicable Codes and Ordinances, and the criteria for site plan approval set forth in Section 19.02.E. Final development plan approval shall be further subject to the following:
  - a) The final development plan for a single phase PUD shall constitute the final site plan or final preliminary plat.
  - b) For an approved multi-phase PUD, separate final development plans may be submitted for each phase. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety and welfare of the residents of the surrounding area and users of the PUD, and each phase of the PUD shall include all improvements necessary to allow the developed portion of the PUD to function and be occupied independent of improvements associated with future phases.
  - c) Subject to modifications in a Village Council approved phasing plan that shall control over the provisions in this Section, in developments which include residential and nonresidential uses, phasing shall contemplate that at least 35% of all proposed residential units are completed concurrent with the first phase of any nonresidential construction; completion of at least 75% of all proposed residential construction prior to the second phase of nonresidential construction; and completion of 100% of all residential construction prior to the third phase of nonresidential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined in the discretion of the Planning Commission, and, further, such percentages may be significantly varied should the Planning Commission determine, in its discretion, that the applicant has presented adequate and effective assurances that the residential component or components of the project shall be completed within the specified period.

## **Section 11.06 PERFORMANCE GUARANTEES**

The Village Council in its PUD preliminary plan or PUD Contract approvals, and the Planning Commission in a final development plan approval, may require reasonable performance guarantees, as authorized under the Michigan Zoning Enabling Act, Act 110 of 2006, as amended, to insure completion of improvements.

## **Section 11.07 AMENDMENT, TERMINATION AND REVOCATION**

Approval by the Planning Commission of the final development plan signifies the completion of the Planned Unit Development application process. The applicant shall comply with all conditions and requirements of the final development plan and contract, which shall be recorded in the record of the Planning Commission's approval action and shall remain unchanged except following the amendment procedures outlined in the approved PUD

Contract. Upon such Planning Commission approval, the PUD Contract, with an addendum that includes the date and conditions of that approval shall be recorded with the Oakland County Register of Deeds.

- A. **Compliance Required.** Once an area has been included within a final development plan for Planned Unit Development and such plan has been approved by the Planning Commission, no development may take place in such area nor may any use thereof be made, except in accordance with said plan, or in accordance with an approved amendment thereto, unless the plan is terminated as provided herein.
- B. **Amendment.** An approved final development plan and PUD contract may be amended in the manner provided in approved PUD contract.
- C. **Termination.** An approved final development plan and PUD Contract and all other PUD approvals under this Article may be terminated by the applicant prior to any development within the PUD area involved by the applicant/developer and all owners of the property, if different, filing with the Village Clerk an affidavit so stating, in a form acceptable for recording with the Oakland County Register of Deeds, Upon the payment of all fees and satisfaction of other obligations to the Village, the Village Clerk shall record the affidavit with the Register of Deeds, with the date of that recording being the date of termination. No approved final development plan and PUD Contract shall be terminated after any development commences within the PUD area, except with the approval of the Village Council and of all parties of interest in the land.
- D. **Revocation.** In any case where the conditions of one or more PUD approvals under this Article have not been or are not being complied with, the Village Administrator shall provide the applicant/developer notice of such failure to comply and establish a time period of at least 20 days from the date the notice was issued for the applicant to remedy the violation. Within the time allowed, the applicant/developer must remedy the violation or request a public hearing before the Village Council for a review of the notice of violation. If the applicant does not remedy the violation and does not request a public hearing before the Village Council within the time allowed in the notice, the Village Council may permanently, temporarily or conditionally revoke or suspend one or more of the PUD approvals granted under this Article.
- E. If the applicant requests a hearing before the Village Council for review of the notice of violation, the time period for remedying the violation shall be temporarily suspended and the review shall be placed on an upcoming Village Council agenda. After the conclusion of such review, if the Village Council finds that a violation exists, it shall establish a time period in which the violation must be remedied. If the violation is not remedied by the conclusion of the established time period, the Village Council may permanently, temporarily or conditionally revoke or suspend one or more of the PUD approvals granted under this Article.
- F. Violations shall be enforced in accordance with Article 20: Violations and Penalties.

## **Section 11.08 EXISTING PLANNED UNIT DEVELOPMENTS**

This Article shall apply to the three (3) Planning Unit Developments that were approved by rezoning to PUD by Ordinance Nos. 26.75, 26.81 and 26.84, and 26.85 and 26.88, under the prior Zoning Ordinance (No. 26.30, as amended) to the extent that its provision: (i) do not conflict with the rezoning terms, conditions and requirements, or (ii) are agreed to in a writing approved by the Village Council and all owners of the property in the PUD. Any PUD Agreement with the Village for an existing PUD shall be considered and treated to be a PUD Contract for purposes of this Article, and may be amended by written agreement approved by the Village Council and all owners of property in the PUD to modify or include provisions required to be included in a PUD Contract under Section 11.05.A.1.e.

# Article 12.

## Schedule of Regulations

### **Section 12.01 STATEMENT OF PURPOSE**

The purpose of this Article is to establish regulations governing lot size, required yards, setbacks, building height and development density for each zoning district. No building shall be erected, nor shall an existing building be altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner except in conformity with the regulations established for the district in which the building or use is located. A portion of a lot used to comply with the regulations in this Article for one building or use shall not be simultaneously used to comply with the regulations for another building or use.

### **Section 12.02 SCHEDULE OF REGULATIONS**

All buildings, structures, uses and parcels of land shall comply with the regulations set forth in the following Schedule of Regulations and footnotes thereto, except as otherwise provided for accessory buildings and structures under Section 13.11.

## Section 12.03 Table 12.02 - SCHEDULE OF REGULATIONS

Zoning District	Lot Minimum		Maximum Lot Coverage	Maximum Building Height (feet)	Minimum Setback Requirement (Feet)				Min Floor Area (sq. ft.) per Dwelling Unit <sup>b, j</sup>	Max. 1 <sup>st</sup> Floor Area (sq. ft.)
	Area (sq. ft.)	Width (feet)			Front (Street)	Each Side	Rear	Water Front <sup>c</sup>		
RV, Village Single Family Residential	7,200 <sup>k</sup>	60 <sup>k</sup>	40%	30	25 <sup>m</sup>	10 <sup>a, d</sup>	25	--	1,200	--
RL, Lake Single Family Residential	7,200 <sup>l</sup>	60 <sup>l</sup>	40%	30	25	5 <sup>a</sup>	25	25	900	--
RM, Multiple Family Residential	8,000 <sup>g, h</sup>	70 <sup>g</sup>	35% <sup>g</sup>	40 <sup>g</sup>	25	25 <sup>g</sup>	25	25	i	--
DC, Downtown Center	--	--	--	42 <sup>o</sup>	p	p, f	p, f	--	i	20,000
CC, Commercial Corridor	--	60	40%	42 <sup>o</sup>	25	e, f	f	25	--	--
MU, Mixed Use	--	60	50%	42 <sup>o</sup>	10 <sup>q</sup>	e, f	25	25	900 (single family detached) i (single family attached)	12,500

## Section 12.04 FOOTNOTES TO THE SCHEDULE OF REGULATIONS

- The minimum side yard for the side of the lot facing a public street in any corner lot shall not be less than 10 feet.
- The minimum width of a single family dwelling shall be 20 feet.
- Lots fronting on the Lake shall be deemed to have a front yard and a waterfront yard. The waterfront yard shall be that yard which faces the lake and the front yard shall be that yard which faces the street.
- Required side yard setbacks in the RV District shall be based on the width of the lot, as follows:

<u>Lot Width</u>	<u>Side Yards</u>	
	<u>Least One</u>	<u>Total Two</u>



<u>Lot Width</u>	<u>Side Yards</u>	
	<u>Least One</u>	<u>Total Two</u>
60 ft. and greater	10 ft.	20 ft.
50 ft. – less than 60 ft.	5 ft.	15 ft.
Less than 50 ft.	5 ft.	10 ft.

- e. Where any CC or MU District borders on a side street there shall be provided a setback of ten (10) feet from the side street right-of-way line for all commercial buildings and parking and loading areas.
- f. Where any DC, CC or MU District abuts a residential zoning district there shall be required a 20 foot wide yard space; otherwise, no yard space is required.
- g. The minimum dimensional requirements for residential dwellings in the RM District shall be as follows:

<u>Requirement</u>	<u>Multiple</u>	<u>Duplex</u>	<u>Single</u>
	<u>Family</u>		<u>Family</u>
Maximum Building Height	40 ft.	30 ft.	30 ft.
Setbacks			
Front	25 ft.	25 ft.	25 ft.
Side (each)	15 ft.	10 ft.	10 ft.
Rear	25 ft.	25 ft.	25 ft.
Maximum Lot Coverage	35%	40%	40%
Minimum Lot Area	*	8,400 sq. ft.	7,200 sq. ft.
Minimum Lot Width	70 ft.	70 ft.	60 ft.

\* See Section 12.02 footnote h.

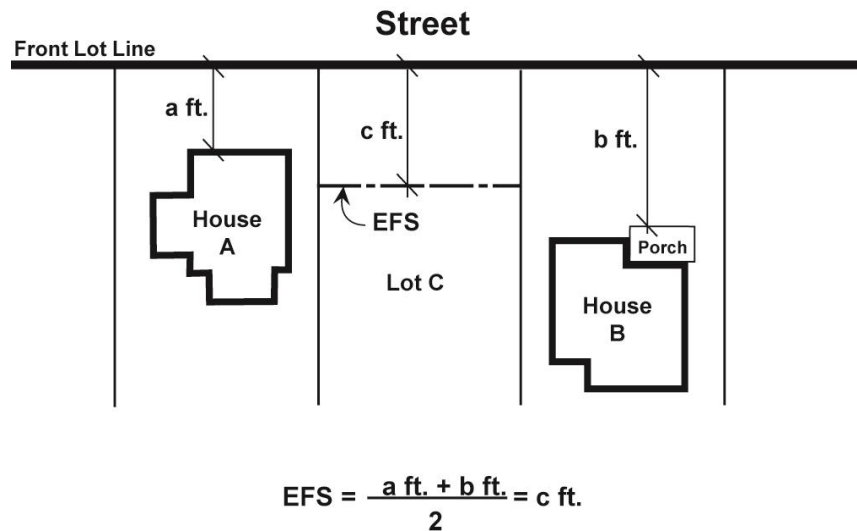
All other uses permitted in the RM District shall comply with the standards in Table 12.02, Schedule of Regulations.

- h. The maximum density in the RM District shall be 15 dwelling units per acre.
- i. Where stacked flats, townhouses, apartments and efficiency units are permitted, the minimum required floor area per unit shall be as follows:

<u>Dwelling Unit Size</u>	<u>Unit Floor Area</u>
Efficiency unit	350 square feet
One bedroom unit	600 square feet
Two bedroom units	800 square feet
Three bedroom units	1,000 square feet
Four bedroom units	1,200 square feet, plus 150 square feet for each bedroom over four

bedrooms in the dwelling unit.

- j. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, garages, or accessory buildings.
- k. In the case of lots located in an existing platted subdivision, the Planning Commission may recommend and Village Council may permit the creation of new lots that are less than the minimum width and area requirements of the RV District if the proposed lots are consistent with the width and area of the underlying platted lots, subject to the following requirements:
  - 1. No lot shall be created with a width of less than 50 feet or an area of less than 5,000 square feet in the RV District.
  - 2. Lots created under this option shall be subject to all setbacks and other requirements of this Ordinance, except for lot width and area, as provided above.
- l. In the case of lots located in an existing platted subdivision, the Planning Commission may recommend and the Village Council may permit the creation of new lots that are less than the width and area requirements of the RL District if the proposed lots are consistent with the width and area of the underlying platted lots, subject to the following requirements:
  - 1. No lot shall be created with a width of less than 40 feet or an area of less than 4,000 square feet in the RL District.
  - 2. Lots created under this option shall be subject to all setbacks and other requirements of this Ordinance, except for lot width and area, as provided above.
- m. The front setback shall be based on the Established Front Setback Line (EFS) if the Zoning Administrator determines that such a pattern exists. The EFS for a lot shall be the average of the front setbacks of adjacent principal building on each side of the subject lot, provided that the adjacent principal buildings are within 100 feet of the side lot lines of the subject lot. The adjacent principal buildings measured shall be on the same side of the street and in the same zoning district as the subject lot. See illustration, "Established Front Setback".



## Established Front Setback

The following procedures shall be used in determining the EFS:

1. On the exterior face of the principal building on each adjacent lot fronting on the same street, measure the distance from the point on the building that is closest to the front lot line. Balconies, porches and decks with surfaces (excluding railings) raised more than 8 inches above the surrounding grade, shall be included when determining the EFS.
  2. Any structure 8 inches or less above grade shall be disregarded when determining the EFS.
  3. In the event that one of the adjacent lots is vacant, then the minimum required 25 foot front setback shall be used for that lot in calculating the EFS.
  4. In the event that the subject lot is on a corner, then the minimum required 25 foot front setback shall be used in the EFS calculations as the adjacent setback figure for the side of the lot that adjoins a street.
  5. In no event shall the permitted front setback be less than 17 feet.
- o. Four (4)-story buildings within the Height Overlay Zone may be permitted, as defined on the Village of Lake Orion Zoning Map and per the requirements of Article 10.
- p. There are no minimum required setbacks in the DC District. The maximum permitted setback in any front, side, or side street yard is 10 feet, except as may be required under FOOTNOTES TO THE SCHEDULE OF REGULATIONS 12.02.f.
- q. The maximum setback in the front street yard shall be 25 feet.

# Article 13.

## General Provisions

The following general provisions shall be applicable to all zoning districts, unless otherwise indicated in this Article or the district.

### ADMINISTRATIVE PROVISIONS

- 13.01 Scope and Interpretation
- 13.02 Conflicting Regulations
- 13.03 Reserved
- 13.04 Reserved
- 13.05 Uses Otherwise Not Included Within a District

### LOT-RELATED PROVISIONS

- 13.06 Lot Limitations
- 13.07 Lots, Yards, and Open Spaces
- 13.08 Application to Lots of Record
- 13.09 Frontage

### RESIDENTIAL PROVISIONS

- 13.10 Dwellings in Non-Residential Districts
- 13.11 Accessory Buildings and Structures
- 13.12 Occupancy: Garage Apartments, Basement Apartments, Mobile Home Dwellings, and Accessory Buildings Used for Residential Purposes
- 13.13 Home Occupations
- 13.14 Single Family Detached Dwelling Design Standards, Including Mobile Homes Outside Mobile Home Parks

### TEMPORARY BUILDINGS AND USES

- 13.15 Temporary Buildings Incidental to Construction and Model Homes
- 13.16 Temporary Uses

### STREETS, VEHICLES AND ACCESS

- 13.17 Parking and Storage of Mobile Homes, Travel Trailers, Motor Homes, Watercraft, Vessels, Trucks, and Other Items
- 13.18 Cross Access
- 13.19 Clear Vision

### DEVELOPMENT-RELATED PROVISIONS

- 13.20 Buildings to be Moved
- 13.21 Refuse/ Recycle Receptacles
- 13.22 Construction Begun Prior to Adoption of Ordinance
- 13.23 Performance Guarantees

### SPECIFIC USE PROVISIONS

- 13.24 Antenna Structures
- 13.25 Wireless Communication Facilities
- 13.26 Voting Place
- 13.27 State Licensed Child and Adult Care Facilities
- 13.28 Signs
- 13.29 Adult Regulated Uses
- 13.30 Animals
- 13.31 Short Term Rentals

## **Section 13.01 SCOPE AND INTERPRETATION**

No building or structure, or part thereof, shall hereafter be erected, converted, constructed, reconstructed, altered or maintained, nor shall any new use or change of use be made or maintained of any building, structure or land, or part thereof, unless it is lawful and in conformity with the provisions of this Ordinance. Further, in interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare.

## **Section 13.02 CONFLICTING REGULATIONS**

This Ordinance is not intended to interfere with or abrogate or annul any ordinances, rules, regulations, or permits that have been previously or shall be adopted or issued and that are not in conflict with any of the provisions of this Ordinance. This Ordinance is also not intended to interfere with or abrogate or annul any easements, covenants, or other agreements between parties.

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations, requires larger lot areas or open spaces than are imposed or required by the provisions of any other law, agreement, easement, covenant or ordinance, the provisions of this Ordinance shall govern.

## **Section 13.03 RESERVED**

## **Section 13.04 RESERVED**

## **Section 13.05 USES OTHERWISE NOT INCLUDED WITHIN A DISTRICT**

The Planning Commission shall have the authority to determine if a use that is not cited by name as a permitted use in the zoning district may be permitted because the proposed use is clearly similar in nature and compatible with the listed uses in the district.

## **Section 13.06 LOT LIMITATIONS**

### **A. Single Family Residential Requirements**

1. All dwellings hereafter erected or structurally altered shall be located on a lot of record.
2. In all single family residential districts, only one principal building shall be placed on a lot of record with the exception of lots of record described and designated as “out lots”, which may be so arranged or subdivided as to provide for one or more principal buildings when the land area allocated to each building is equal to or greater than the lot area required for the district in which it is located.
3. In a single family site condominium project, only one principal building shall be placed on each condominium lot, as defined in Article 2.

### **B. Non-Single Family Residential Requirements.** In any non-single family district, one or more principal building(s) and use(s) may be placed on a single lot or parcel, subject to that building(s) and use(s) meeting all requirements of the district in which it is located.

- C. **Divisions and Combinations.** Any division or consolidation of land must also comply with all of the requirements of the Land Division Act (P.A. 288 of 1967, as amended), as well as the Village Subdivision Control Ordinance and Ordinance on the division and partitioning of land.

## **Section 13.07 LOTS, YARDS, AND OPEN SPACES**

No space which for the purpose of a building or buildings has been counted or calculated as part of a required yard or other open space required by this Ordinance, may by reason of change in ownership or otherwise be counted or calculated to satisfy or comply with a yard, or other open space requirement of or for any other building. In any single-family residential district, the front and rear yard requirements of a double frontage lot shall be the same as prescribed for any single lot in the zone wherein the double frontage is located.

## **Section 13.08 APPLICATION TO LOTS OF RECORD**

- A. **Non-Conforming Lot.** Where the owner of a non-conforming lot of record does not own and cannot reasonably acquire sufficient land to enable him to conform to the requirements of this Ordinance relating to lot area, lot width, or both, such lot of record may be used by such owner as a building site, provided that the other requirements of this Ordinance are met.
- B. **Division Prohibited.** If two (2) or more lots or combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of such lots do not meet the requirements of Article 12, Schedule of Regulations for lot width and area, the lands involved shall be considered to be a single undivided lot for the purposes of this Ordinance. No portion of said lot shall be used or sold in any manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any lot be made which creates a lot width or area less than the requirements stated in the Ordinance, except as permitted under Section 4.03.C. These same provisions shall also apply to unplatted lots or parcels, except that Section 4.03.C shall not apply.
- C. **Abutting Lots.** When two (2) or more abutting or contiguous lots, one or more of which is non-conforming in width or area, are of record and in single ownership as of the effective date of this Ordinance and each is occupied by a lawful principal structure as of the effective date of this Ordinance the two (2) or more abutting lots shall be deemed as non-conforming lots of record under Section 13.08.A. above.

## **Section 13.09 FRONTAGE**

- A. **Street Frontage.** No principal building shall be erected on a lot which does not abut upon a public or lawful private street, except that where unusual lot formations are required because of irregular shaped parcels of land, such as on the islands in the Village, variations may be allowed by the Board of Zoning Appeals with due regard for the overall health, welfare, safety and convenience of the people, and access of emergency and service vehicles.
- B. **Lake Frontage.** Lots having frontage on Lake Orion shall be deemed to have a water front yard. The street yard of a lot having frontage on Lake Orion shall be deemed to be the front yard for the purpose of determining compliance with the requirements of this Ordinance.

## **Section 13.10 DWELLINGS IN NON-RESIDENTIAL DISTRICTS**

No residential dwelling unit shall be erected or created in the CC District, except that the sleeping quarters of a watchman or caretaker shall be permitted, subject to the following requirements:

- A. A recreational vehicle or mobile home shall not be used as a watchman or caretaker's residence.

- B. All such dwelling units shall have a living area of at least 500 sq. ft. but not more than 1,000 sq. ft.
- C. Watchman or caretaker's residences may be occupied only by the business owner, a superintendent, or by a caretaker, watchman or custodian and their immediate family. These units may be used only in conjunction with the operation of a business on the same property in the CC District, and shall be an integral part of the principal business structure and located behind or above that portion of the business structure devoted to service to the public.

## **Section 13.11 ACCESSORY BUILDINGS AND STRUCTURES**

Accessory buildings and structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

### **A. General Requirements.**

- 1. No more than two (2) detached accessory buildings larger than 80 square feet each, are permitted on a zoning lot.
- 2. Accessory buildings are permitted only in conjunction with, incidental to and on the same zoning lot as a principal building that is permitted in the particular zoning district.
- 3. No detached accessory building may exceed 16 feet in height.
- 4. No attached accessory building may exceed the height of a principal structure as regulated by this Ordinance.
- 5. Accessory buildings may not exceed the ground floor area of the principal dwelling unit.
- 6. All accessory buildings and structures (except accessory mechanical units as regulated in Section 13.11.E.) shall be considered when calculating the permitted lot coverage.

### **B. Setback and Location Requirements.**

- 1. Where the accessory building or structure is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
  - a) In the RV District accessory buildings and structures are not permitted in any required front yard or in front of the front building line of the house, unless specifically permitted herein.
  - b) In the RL District a garage (attached or detached) and any other detached accessory buildings may be permitted on the front (street) side of the lot, and shall be setback at least 20 feet from the front (street) lot line.
- 2. Detached accessory buildings and structures shall comply with the following setback requirements:

Setback From	Minimum Setback
Front lot line (RV only)	Behind front building line of house
Side lot line	3 ft.
Side street lot line	10 ft.
Rear lot line	3 ft.
Water lot line	25 ft.

3. Except as provided below, where any lot in a zoning district abuts or is traversed by a navigable lake or stream, no accessory building or structure shall be erected within 25 feet of the edge of said navigable lake or stream, except as permitted by Section 13.11.C., below.
4. In the case of a double frontage lot, accessory buildings and structures shall observe front yard requirements on both street frontages.
5. All accessory buildings and structures shall comply with setback and fire rating requirements in the Building and Fire codes.

**C. Permitted Encroachments**

1. Accessory structures such as patios and decks raised not more than eight (8) inches above the surrounding grade shall be permitted to encroach into a required rear or waterfront setback area.
2. A detached accessory structure that is supported by columns without walls, and that has at least seventy-five percent (75%) of the area of all its vertical planes open to light and air shall be permitted to be located less than twenty-five (25) feet, but no less than ten (10) feet from the water lot line and edge of Lake Orion. Such structure shall not exceed twelve (12) feet and six (6) inches in height (measured from grade to roof ridge) or exceed 175 square feet of total assembled area. An ornamental, non-illuminated spire or decoration shall be allowed atop, provided it is less than four (4) inches in diameter and less than five (5) feet in additional height.

**D. Boat Houses and Boat Hoists**

1. Seasonal boat hoist(s) are permitted on an RL zoning lot. A building permit is not required for a seasonal boat hoist.
2. One (1) permanent boat hoist no greater than eight (8) feet in height with a one-boat capacity is permitted on an RL zoning lot, provided all state and federal permits and a zoning compliance or building permit are obtained. The height of the hoist is measured as the distance above the ordinary high water mark.
3. One (1) single boat house or one (1) permanent boat hoist larger than eight (8) feet in height or capable of hoisting more than one (1) boat at a time, and a seasonal boat hoist(s), may be permitted per lot. The boat house or boat hoist:
  - a) May not be greater than 14 feet in height at the peak of its roof. Height is measured as the distance above the ordinary high water mark.
  - b) May not contain any plumbing facilities except for hot and cold running water.
  - c) May not be used for either temporary or permanent sleeping or living quarters;
  - d) May not be used for commercial purposes;
  - e) May not be greater than 480 square feet in water surface area;



- f) May not be located closer than five (5) feet to the nearest side lot line, or extension of that line into the water and is not subject to waterfront yard setback requirements.
- g) Must not unreasonably impair the view and use of the lake by neighboring property owners;
- h) Must be constructed in compliance with a zoning compliance or building permit and state and federal permit requirements, including, but not limited to, those administered pursuant to the Inland Lakes and Streams Act, P.A. 346 of 1972, as amended.

#### E. **Accessory Mechanical Units**

1. **Single Family Residential.** Freestanding heating, ventilation, standby generators, and air conditioning equipment may be located in any yard other than the required front yard of the principal structure, subject to the following requirements (window-mounted room air-conditioners are exempt from these requirements):
  - a) Placement of accessory mechanical equipment shall not be permitted within 10 feet of a window on an adjacent dwelling.
  - b) Accessory mechanical equipment shall be screened in a manner which will reduce the noise output of the unit and to shield the equipment from view of any road, adjacent residence, or the Lake. The maximum noise output from any such unit shall not exceed 55 decibels, measured at a distance of ten (10) feet from the unit.
2. **Non-Single Family Residential.** Freestanding, roof or building mounted equipment (including air conditioning units, transformers, generators and similar) for all non-single family residential buildings and uses, and those on sites zoned non-single family residential districts shall be located in accordance with the following:
  - a) *Front Yards.* Equipment shall not be located in a front yard except the Planning Commission may permit equipment to be located in the front yard upon finding that such location will meet the spirit and intent of the zoning district in which the building is located provided such equipment is not located closer than ten (10) feet from an adjacent residential dwelling or district.
  - b) *Side and Rear Yards.* Equipment shall be permitted in a side or rear yard provided such equipment is not located closer than ten (10) feet from an adjacent residential dwelling or district.
  - c) *Screening.* Equipment shall be screened from public rights-of-way and adjacent uses by evergreen trees or shrubs, walls, or berming. Alternative methods of screening may be approved by the Planning Commission.
  - d) The Planning Commission shall have the authority to waive or modify the above requirements upon the determination that such waiver or modification meets the spirit and intent of the district in which the equipment is located.

F. **Swimming Pools.** Swimming pools shall be in compliance with all setback requirements for the principal building, except in-ground swimming pools which are subject to the requirements of Section 13.11. C., above.

G. **Accessory Buildings in RM and Non-Residential Zoning Districts.** An accessory building or structure in the RM Multiple Family Residential, or any non-residential zoning district shall comply with all requirements of this Ordinance for a principal building in that zoning district. Setbacks may be modified by the Planning Commission upon determination that the modification is necessary to achieve specific design objectives and will not negatively impact the surroundings or Village as a whole.

## **Section 13.12 OCCUPANCY: GARAGE APARTMENTS, BASEMENT APARTMENTS, MOBILE HOME DWELLINGS AND ACCESSORY BUILDINGS USED FOR RESIDENTIAL PURPOSES**

No garage, basement, accessory building, temporary building or mobile home erected or placed on a lot after the effective date of this Ordinance shall be occupied or used for as an additional separate dwelling on the same lot.

## **Section 13.13 HOME OCCUPATIONS**

Home occupations shall be subject to the requirements of the zoning district in which they are located, as well as the following standards:

- A. The home occupation must be clearly incidental to the use of the dwelling as a residence.
- B. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.
- C. The appearance of the structure shall not be altered nor shall the home occupation be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises, or vibrations.
- D. Only the residents of the dwelling unit may be occupied in the home occupation.
- E. The home occupation may increase vehicular flow and parking by no more than two (2) additional cars at a time. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.
- F. No home occupation shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure.
- G. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, trash removal, etc.) so that the combined total use for the dwelling unit and home occupation significantly exceeds the average for residences in the neighborhood.
- H. One (1) non-illuminated nameplate, not more than one (1) square foot in area shall be permitted. Said sign shall be attached flat to the building wall, and shall contain only the name and occupation of the residents on the premises.
- I. A home occupation shall not create noise, dust, vibration, odor, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than normally occurs in a similarly zoned residential district.
- J. The use and all materials, goods, articles, services, supplies, equipment and portions of the dwelling that are possessed, used, sold, or provided in connection with the use, are lawful.

## **Section 13.14 SINGLE FAMILY DETACHED DWELLING DESIGN STANDARDS, INCLUDING MOBILE HOMES OUTSIDE MOBILE HOME PARKS**

Any new single family detached dwelling located outside a mobile home park, erected after the date of adoption or amendment of this Ordinance, shall be subject to the following:

- A. **Design Standards**

1. The dwelling unit shall comply with the minimum square footage requirements of this Ordinance for the zone in which it is located.
2. The dwelling shall have a minimum width across front, sides and rear elevations of twenty (20) feet and shall comply in all respects with the Michigan State Construction Code including minimum heights for habitable rooms. The provisions of this Section shall not have the effect of making one family dwellings which exist as of the effective date of this amendment, non-conforming.
3. The dwelling shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code and shall have a wall of the same perimeter dimensions as the dwelling and constructed of such materials and type as required in the applicable building code for single family dwellings. In the event that the dwelling is a mobile home, as defined herein, said mobile home shall comply with all applicable Federal and State construction and safety standards, including those of the United States Department of Housing and Urban Development (HUD) and the Michigan Manufactured Housing Commission (MMHC).
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
5. The dwelling shall be connected to a public sewer and public water supply, where provided.
6. The dwelling shall contain storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling.
7. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached porches with steps connected to said door areas where a difference in elevation requires the same.
8. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator and Building Official upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the Board of Zoning Appeals within a period of 30 days from the receipt of notice of the Zoning Administrator's and Building Official's decision. Any determination of compatibility shall be based upon the standards set forth in this Ordinance for single family dwellings as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Village. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
9. The dwelling shall contain no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of a foundation as required herein.
10. The dwelling shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall conform to all applicable state and federal standards, including those of HUD and the MMHC. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
11. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law, or otherwise specifically required in the Village Zoning Ordinance pertaining to such parks.

#### **B. Mobile Home Requirements**

1. Mobile homes outside mobile home parks shall comply with all the minimum requirements of Article 12, Schedule of Regulations, and all other regulations applicable to residential dwellings in this Ordinance.
2. Not more than one mobile home (single or double-wide) shall be used as a single family dwelling on a lot, nor shall a mobile home be placed on any lot on which another single family dwelling is located.
3. Mobile homes which do not conform to the definition of and standards for a single family dwelling shall not be used for dwelling purposes within the Village unless located within a licensed mobile home park zoned for such use.
4. Any use of a mobile home for other than a residential dwelling is not permitted.

## **Section 13.15 TEMPORARY BUILDINGS INCIDENTAL TO CONSTRUCTION**

Temporary buildings incidental to construction activities and model homes may be permitted upon application to and approval by the Zoning Administrator subject to the following requirements:

### **A. Temporary Occupancy of a Mobile Home During Construction**

1. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted.
2. The unit must be connected to the public water and public sanitary sewer systems.
3. Maximum length of the original temporary use permit shall be 12 months. The permit may be renewed one time at the end of the original 12 month period. Approval shall be based on demonstrated need for the renewal, and evidence of reasonable progress toward completion of the permanent residence. A renewal may be limited to less than 12 months, as determined by the Zoning Administrator.
4. The mobile home shall be removed from the property within ten (10) days of the issuance of a certificate of use and occupancy for the new or rehabilitated residence. Prior to issuance of a permit for the temporary building, the applicant shall be required to provide written consent and authorization to the Village to remove the shelter at the owner's expense upon termination of the permit. A performance guarantee for such removal may be required per Section 13.23.

### **B. Construction Trailers and Associated Facilities.** The following may be permitted for periods of time and subject to conditions established by the Zoning Administrator:

1. During the period of actual construction of development approved by the Village, one (1) construction trailer may be permitted. The construction trailer shall be removed within one (1) month after a certificate of use and occupancy is issued.
2. Facilities for the temporary storage of materials or equipment related to large construction projects.
3. Construction equipment and apparatus on a construction site stored during times other than during active construction, not to exceed 60 days.

### **C. Model Homes**

1. The applicant shall have submitted and received approval for all required site and construction plans for the development in which the model home is proposed.
2. Retention/detention facilities shall be in place prior to the issuance of a model home building permit.

## Section 13.16 TEMPORARY USES

- A. **Permitted Temporary Uses.** The following uses or activities which are clearly temporary in nature as defined herein, along with associated temporary buildings and structures, may be permitted by the Zoning Administrator subject to the requirements of Section 13.16.C. below. However uses or activities which otherwise require Village Council approval for purposes including but not limited to the closing of Village streets may be permitted by the Village Council as part of such other approval. No such temporary use shall be permitted on a lot for more than one (1) week or two (2) consecutive weekends per calendar year. Such temporary uses include, but are not limited to the following:
1. Car wash events to support non-profit clubs and organizations.
  2. "Tent" sales or sidewalk sales of retail goods, for an established business(es) and accessory to that business.
  3. Facilities at "running events" including portable toilets, tents and signs.
  4. Carnivals and fairs, which may include outdoor food and/or beverage service.
  5. Festivals and related activities sponsored by non-profit organizations.
  6. Special events held to celebrate a grand opening, an anniversary, or promotion of an established business, held on the premises of that business.
  7. Other temporary uses intended for seven (7) consecutive days or less, or no more than two (2) consecutive weekends, conducted by an established Village business on the premises of that business.
  8. Emergency facilities for disaster relief and temporary housing or shelter for relief from fire, natural disaster, or acts of God may be permitted and may exceed the time limits noted above. Such facilities may be approved for a period of up to 120 days.
- B. **Temporary Uses Requiring Board of Zoning Appeals Approval.** Uses which are clearly temporary in nature as defined herein, along with associated temporary buildings and structures to be used for more than one (1) week or two (2) consecutive weekends, and conducted by an established Village business on the premises of that business, may be permitted by the Board of Zoning Appeals subject to the requirements in Article 19. However, uses or activities that otherwise require Village Council or Zoning Administrator approval for purposes including but not limited to the closing of Village streets, or public-sponsored seasonal temporary events (i.e. Village farmers' market, Music in the Park) may be permitted by the Village Council or Zoning Administrator.
- C. **Review Standards.** The Zoning Administrator, Board of Zoning Appeals, or Village Council as applicable, shall consider the impacts (both on-site and off-site) of all of the following items in review of an application for a temporary use, temporary building or temporary structure:
1. Adequacy of parking, traffic control, and access.
  2. Adequate drainage.
  3. Compatibility with surrounding land uses.
  4. Size, height, and type of construction of proposed buildings and structures in relation to surrounding sites.
  5. Sufficient setbacks from road rights-of-way and lot lines.
  6. Adequate utilities.
  7. Trash disposal and site clean up.
  8. Sanitary facilities.
  9. Hours of operation.

10. Outdoor lighting and signs.
11. Other licenses or permits required.
12. Potential noise, odors, dust, and glare.
13. Fire lanes, fire protection and security.
14. Off-site impacts.
15. Provision for safe pedestrian travel.
16. Necessity of a performance bond or insurance to ensure prompt termination and removal of the use, clean-up or compensation for impacts of the temporary use.
17. Other concerns which may impact the public health, safety or general welfare.

D. **Application Requirements.** Application for approval of any temporary land use, building or structure shall be filed with the Village either by the owner of the property or his designated representative, or by the occupant of the property with authorization from the owner of the property or his designated representative. The applicant shall submit a written request on such forms as provided by the Village. The request shall be accompanied by the required fee(s) as established by resolution of the Village Council. The request shall include the following information:

1. The name, address and telephone number of the applicant.
2. The location of the property.
3. A complete explanation of the proposed temporary use, including dates, time, and any food or beverage service.
4. A scaled plot plan (1" = 50' minimum) in sufficient detail to allow review of the items listed in Section 13.16.C. above, and including the following information:
  - a) Northpoint and date of plan
  - b) Zoning of site and adjacent properties
  - c) Dimensions of lot(s)
  - d) Dimensions of all existing structures
  - e) Dimensions of proposed temporary use areas
  - f) Property lines and dimensions
  - g) Rights of way locations and width
  - h) Drives and roads and dimensions
  - i) Screening walls, fences, or greenbelts
  - j) Parking spaces
  - k) Trash receptacles and utility pads
  - l) Location and dimensions of all sidewalks, curb openings, curbing wheel stops
  - m) Grass areas and paved areas
  - n) Loading and unloading areas and dimensions
  - o) Designated fire lanes

- p) Sign areas
  - q) Dimensions of any other structures or encroachments not specifically named
  - r) Lighting in temporary use area including emergency lighting of exits.
5. Written permission of the property owner.
  6. Any other information requested by the Zoning Administrator, Board of Zoning Appeals or Village Council and deemed necessary to make the necessary findings for approval.

**E. Board of Zoning Appeals**

1. Prior to taking action on a request for a temporary land use, building or structure that requires Zoning Administrator approval pursuant to Section 13.16.A. above, the Zoning Administrator may at his/her discretion refer the Zoning Administrator application to the Board of Zoning Appeals for public hearing.
2. All applications that require Board of Zoning Appeals approval pursuant to Section 13.16.B. shall be heard at a duly noticed public hearing. Notice of said hearing shall be given in accordance with the requirements of Section 19.04.G. Notice of Hearing.

**F. Conditions of Approval.** The Zoning Administrator, Village Council, or Board of Zoning Appeals may approve without conditions, approve with conditions or deny a temporary land use, building or structure, based upon review of the items required pursuant to Section 13.16.C., above. The Zoning Administrator, Village Council, or Board of Zoning Appeals may set forth conditions for approval of the temporary use, may set a time limit for the expiration of the temporary use permit and may require the posting of a performance bond or insurance to ensure prompt termination and removal of the use, clean-up and compensation for impacts of the temporary use.

**G. Revocation of Permit.** The Zoning Administrator, Village Council, or Board of Zoning Appeals (whichever party granted the permit) may revoke or reconsider a temporary use permit based upon a finding that the conditions of the approval have been violated or that the use is adversely affecting the surrounding area. A temporary use permit may be suspended by the Zoning Administrator entirely or until the Board of Zoning Appeals or Village Council (as appropriate) can act, if the public health or safety is jeopardized.

**H. Vehicles and Trailers.** Trucks, truck trailers, vans or other passenger vehicles or trailers shall not be used for storage, warehousing, retail sales, services or offices during the special event or duration of the temporary use, except as specifically permitted by a Village Council approval.

**I. Signs.** Portable signs and temporary signs shall be allowed during the time of the special event or temporary use pursuant to the Village of Lake Orion Sign Ordinance.

## **Section 13.17 PARKING AND STORAGE OF MOBILE HOMES, TRAVEL TRAILERS, MOTOR HOMES, WATERCRAFT, VESSELS, TRUCKS AND OTHER ITEMS**

Mobile homes, travel trailers, motor homes, boats, watercraft and other vessels, vessel trailers, trucks, and other similar items shall be subject to the following requirements:

- A. No mobile home may be stored or parked on any lot, except in conformance with the provisions of Section 13.14.
  1. No more than one (1) travel trailer or one (1) motor home, and up to two (2) other recreational vehicles as defined in this Ordinance (excluding watercraft and vessel trailers) may be parked or stored outdoors on any lot that is zoned or used for residential purposes. Permitted outdoor parking or storage of all recreational vehicles shall be only in the rear yard, except in the RL District where they shall be permitted only in the street front yard. All watercraft, vessel trailers and recreational vehicles stored on a residential lot shall be currently registered to the owner or occupant of that lot.

2. In addition, the following regulations shall apply in the districts noted:

a) **RL District.**

- 1) From September 1<sup>st</sup> through May 31<sup>st</sup>, no more than two (2) watercraft less than 16 feet in length, and no more than two (2) watercraft 16 feet in length or greater, and no more than two (2) vessel trailers, may be parked or stored outdoors in the street front yard.
- 2) From June 1<sup>st</sup> through August 31<sup>st</sup>, no watercraft shall be parked or stored outdoors on an RL lot for longer than 72 hours unless written permission is obtained from the Zoning Administrator for a longer storage period, not to exceed three (3) weeks during the three month period. However, parking or storage of no more than two (2) vessel trailers may be permitted during the period of June 1<sup>st</sup> through August 31<sup>st</sup>.

b) *RV District.* Recreational vehicles shall be permitted to be stored or parked outdoors on a lot as provided under 13.17.B.1. above, except that the two (2) other recreational vehicles permitted may include watercraft and vessel trailers. All recreational vehicles that are stored outdoors shall be located in the rear yard.

- B. On lots zoned for residential use, the maximum permitted lot coverage requirement shall include all buildings, plus outdoor parking or storage space for travel trailers, motor homes and watercraft.
- C. No recreational vehicle parked or stored shall have fixed connections to electricity, water, gas or sanitary facilities, nor shall it be used for living or housekeeping purposes while on the premises.
- D. Commercial vehicles exceeding 8,500 pounds gross vehicle weight or eight (8) feet in height, or trailers having more than two (2) axles shall not be parked or stored outdoors on residentially zoned property at any time.
- E. It shall be a prohibited use in all residentially zoned districts to park or store junk, used lumber or metal, or other used building materials, or power-driven construction equipment. Notwithstanding the foregoing, power driven construction equipment may be parked and new construction materials may be stored on site during periods of bona fide construction activity.
- F. **Portable On-Demand Storage Units (“PODS”)**
1. A portable on-demand storage unit (PODS) may be located on a temporary basis on a residential lot for a period not exceeding 72 hours in duration from time of delivery to time of removal.
  2. No more than one PODs storage unit may be located on a zoning lot at one time.
  3. A PODS unit may not be located on a specific zoning lot more than two (2) times in any given 30 day period.
  4. A PODS unit must be located in the driveway of the property at the furthest accessible point from the street. All locations must be improved off-street surfaces and the PODS unit shall not block vision or sight distances, overhang the public sidewalk or right-of-way, or impact vehicle safety on the street.
  5. A PODS unit shall not be considered an accessory structure for purposes of this Ordinance.

## **Section 13.18 CROSS ACCESS**

As a condition of site plan approval, the Planning Commission may require that cross-access drives be provided in order to reduce the number of points of ingress and egress to the property, to decrease traffic congestion and improve safety on abutting roadways. Such cross-access drives shall be in accordance with Section 19.02.E.14.



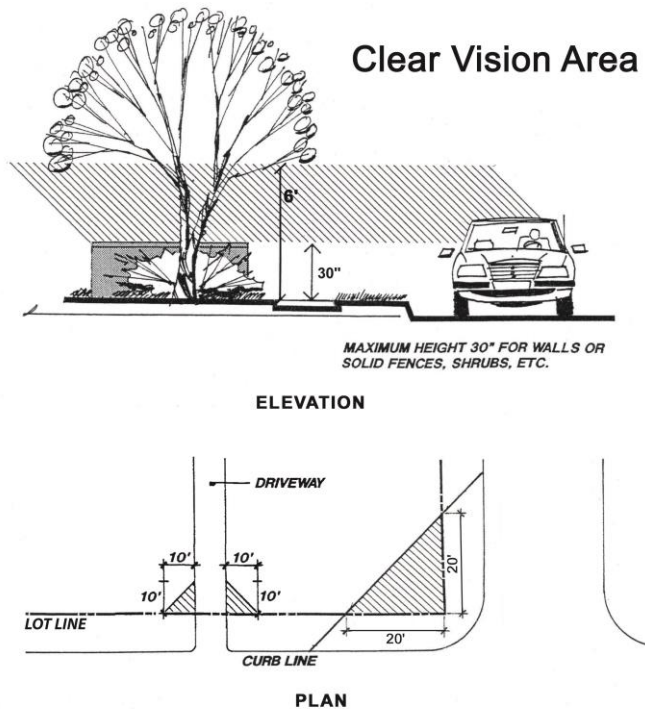
## Section 13.19 CLEAR VISION

No structure, wall, fence, shrubbery, or trees shall be erected, maintained, or planted on any lot which will obstruct the view of the driver of a vehicle approaching an intersection or in the clear vision triangles described in this Section.

Shrubbery and low retaining walls or fences not exceeding 30 inches in height above the curb level and shade trees where all branches are at least six (6) feet above the street level shall be permitted.

The clear vision triangle is an unobstructed triangular area formed by the street lot lines and a line connecting them at points 20 feet from the intersection of the street lines, or in the case of a rounded corner, from the intersection of the street lot lines extended. In the case of corner lots, this shall also mean that a clear vision triangle shall be provided.

In the case of the intersection of a driveway and a street, the clear vision triangle is an unobstructed area formed by the street lot line, the edge of the driveway and a line connecting them at points ten (10) feet from their intersection.



## Section 13.20 BUILDINGS TO BE MOVED

Any building or structure which has been wholly or partially erected on any premises within or outside the Village of Lake Orion shall not be moved to and/or placed upon any premises in the Village unless a building permit for such building or structure shall have been secured. Any such building or structure shall fully conform to all of the provisions of this Ordinance in the same manner as any new building or structure.

## Section 13.21 REFUSE/ RECYCLE RECEPTACLES

Where required by this Ordinance or otherwise deemed necessary by the Planning Commission, refuse / recycle receptacle enclosures shall be provided and shall conform with the following:

### A. General Requirements

1. No occupant, owner, lessee, or their agent, shall permit the storage or open accumulation of waste, garbage or recyclable materials in yards, lots or right-of-way areas.
2. All refuse, garbage or recyclable materials shall be contained within properly designed receptacles located in designated storage areas, and regularly removed from the site. In no instances shall any refuse be visible above required screening.
3. Outdoor storage areas for such receptacles shall be kept free of loose litter and debris, and maintained in a neat, orderly and sanitary condition.
4. Refuse/ recycle receptacle enclosure gates shall be closed and secured when not in use.
5. If located in the DC, MU or CC district (or used a shared dumpster), pedestrian entry (other than the required gates) shall be provided.

6. Receptacles for the storage of food wastes, grease and other restaurant or food service garbage shall be properly sealed and secured to minimize odors and prevent animal or insect infestations.
7. Waste receptacles shall remain in a clean and orderly state. The Village may require the enclosure to be repaired, washed and sanitized at the owner's expense.

**B. Enclosure Design Standards**

1. Enclosures shall be harmonious with their surroundings, decorative in nature, and aesthetically pleasing. Where surrounding structures feature masonry facades, the use of masonry materials for enclosures is strongly encouraged.
  - a) Refuse / recycle receptacles that are completely enclosed and secured by a decorative masonry or textured stone screen wall on three sides, and steel reinforced, opaque gates (or similar type), and that are in compliance with all other provisions of section 13.21, may be approved administratively, subject to DDA Director review (where applicable).
  - b) All enclosures shall include internal designs such as pattern, depth variation and a decorative cap.
  - c) Alternative enclosure materials may be considered after Planning Commission review (and DDA review, where applicable), provided that they maintain a decorative and quality appearance. Examples that may be permitted include hardiplank, trex and galvanized polyethylene plastic, such as SimTek.
  - d) Prohibited materials include standard concrete masonry unit (CMU), wood, vinyl fencing or chain link fencing.
  - e) Pressure treated wood (cedar) may be used for enclosure gates only, if found appropriate by the Planning Commission, but shall never be an enclosure material.
2. Bollards or other protective devices may be required to prevent damage to the screen walls and shall be located in the interior of the enclosure at corners and edges.
3. The enclosure shall include pockets for air ventilation, a minimum of six (6)-inches in height.
4. The type, color and pattern of enclosure materials shall match or complement the exterior façade materials of the principal building. Painted masonry is strongly discouraged.
5. The height of the enclosure shall be sufficient to completely screen all refuse / recycle receptacles and materials. The enclosure shall be a minimum of six (6) feet in height but not more than eight (8) feet high.
6. The surface within refuse / recycle receptacle enclosures shall be constructed of concrete, and shall extend a minimum of ten (10) feet in front of the enclosure.
7. Landscaping for refuse / recycle receptacle enclosures shall be in accordance with Section 15.02, Landscaping and Screening.

**C. Location and Placement**

1. Refuse / recycle receptacles shall be located in a side or rear yard to minimize visibility from adjacent properties and street rights-of-way.
2. Adequate vehicular access shall be provided to such receptacles for truck pickup either via vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
3. Receptacles shall be consolidated by block or quadrant to minimize the number of collection sites and located so as to reasonably equalize the distance from the building they serve.

**D. Site Security and Enforcement**

1. Gates shall be lockable. Where refuse / recycle enclosures are shared among multiple users, lockable gates shall not be required.
2. Pickup hours shall be limited to those hours as designated by Village Policy.

**E. Site Plan Approval**

1. Refuse / recycle receptacle enclosures shall be screened to the satisfaction of the Planning Commission and/or Zoning Administrator in a manner described in Section 15.02.
2. Prior to consideration by the Planning Commission, the DDA Director shall provide a written statement and evaluation for proposed dumpster enclosures located within the DDA District.
3. The Planning Commission shall have the authority to modify refuse / recycle receptacle enclosure height, material and location standards, provided that the alternative meets the screening objectives of this Section.

## **Section 13.22 CONSTRUCTION BEGUN PRIOR TO ADOPTION OF ORDINANCE**

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designed use of any building upon which actual construction has been legally commenced and diligently pursued prior to the effective date of this Ordinance.

## **Section 13.23 PERFORMANCE GUARANTEES**

- A. To insure compliance with this Zoning Ordinance and any conditions imposed under this Zoning Ordinance, including but not limited to conditions of the site plan approval, special approval and PUD approval, the Planning Commission, Village Council, Zoning Administrator, and/or Board Zoning of Appeals may require that financial security acceptable to the Village, be deposited with the Village Clerk to insure faithful completion of improvements, as defined in Article 2 of this Ordinance. The amount of the cash deposit, certified check or irrevocable bank letter of credit shall cover the estimated cost of improvements associated with a project and other reasonable incidental costs associated therewith, for which approval is sought.
- B. At the direction of the Village, the performance guarantee along with a description and schedule of improvements to be completed shall be deposited with the Village Clerk at the time of the issuance of the permit authorizing the activity or projects prior to the issuance of any certificate of occupancy or temporary certificate of occupancy.
- C. The applicant shall be required to provide the performance guarantee or financial security in one or a combination of the following arrangements, whichever the applicant elects.
  1. **Irrevocable Letter of Credit.** An irrevocable letter of credit issued by a bank authorized to do business in Michigan in an amount to cover the cost of the contemplated improvements as estimated by the Village.
  2. **Escrow Fund.** A cash deposit, or deposit by certified check sufficient to cover the cost of the contemplated improvements as estimated by the Village shall be deposited with the Village Clerk. The escrow deposit shall be for the estimated time period necessary to complete the required improvements.
- D. The Village Clerk may rebate or release an escrow to the applicant or approve a letter of credit reduction as the work progresses, of amounts equal to the ratio of the completed and accepted work to the entire project, after approvals described below.
- E. **Private Improvements and Acceptance for Maintenance of Required Public Improvements**

1. **Certification by the Applicant's Engineer.** The applicant shall furnish the Village Clerk a letter or document signed by a registered engineer indicating satisfactory completion of the required improvements.
  2. **Inspection of Public Improvements.** After the completion of the construction of the required public improvements, the Village, or the County, State or Federal agency with jurisdiction to grant approval or accept, shall conduct a final inspection. This inspection shall be made to assure the improvements are completed according to the approved plans and specifications.
  3. **Partial Acceptance.** In no case shall an acceptance of any partial street be made for maintenance.
- F. In case the applicant shall fail to complete the required improvements within the time period as required by the conditions or guarantees as outlined above, the Village may proceed to have such work completed and pay for the cost thereof by appropriating the escrow fund or by drawing upon the letter of credit.

## **Section 13.24 ANTENNA STRUCTURES**

Antenna structures may be permitted in any zoning district subject to the following conditions. Antenna structures which contain a single rod or array, are designed to receive over the air signals, that do not exceed the height limit of the zoning district, and do not obstruct the free passage of light and air shall be excluded for the purposes of this Section. Satellite dishes less than three (3) feet in height are also excluded for the purposes of this Section.

### **A. General Requirements**

1. A zoning compliance or building permit shall be required prior to the erection of any structure covered in this Section.
2. Antennas shall not be permitted in a front yard
3. The antenna shall be securely mounted and anchored in accordance with the requirements of the manufacturer and the Construction Code.
4. All such antennas shall be located a minimum of ten (10) feet from any street right-of-way line and three (3) feet from any other property line.
5. No antenna structure shall be used for display of advertising messages or as a sign pole.

**B. Satellite Dish Antennas.** Because of their weight, bulk and restrictions to the free passage of light and air, satellite dish antennas require regulation beyond that imposed upon other antenna structures under this section. As noted above, satellite dishes, less than three (3) feet in height are excluded from regulations. In addition to the regulations above, satellite dish antennas shall comply with the following:

1. No satellite antennas shall be constructed upon the roof of any garage, residential dwelling, church, school, hospital or apartment building, or any commercial or industrial building or structure, nor shall they be mounted upon chimneys, towers, trees, poles or spires, unless such satellite antennas receive the special approval of the Planning Commission. Prior to granting special approval, the Planning Commission shall make findings of compliance with the following:
  - a) A usable satellite signal cannot be obtained from any permitted rear or side yard location.
  - b) If mounted upon a residential structure, the satellite antenna shall not project above the peak of the roof and shall not be visible from the front yard of the subject lot or from public rights-of-way.
  - c) If mounted upon a commercial or industrial structure, the satellite antenna shall not project above the maximum height established for the district.
  - d) Satellite antennas mounted upon commercial or industrial structures shall be placed or reasonably screened so as to not be visible from public rights-of-way or adjacent residential properties.

2. Ground mounted satellite dish antennas shall not exceed 14 feet in height.
3. Ground mounted satellite dish antennas shall be reasonably screened from view of adjacent properties and public rights-of-way with a screening wall or fence, berm, evergreen plantings, or a combination thereof.
4. The surface of any satellite dish shall be designed, painted or treated so as not to reflect glare from sunlight. No dish shall be painted with advertising messages or used as a sign.

## **Section 13.25 WIRELESS COMMUNICATION FACILITIES**

- A. Purpose and Intent. 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. However, it is the further purpose and intent of the Village to provide for such authorization in a manner that 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, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this Section to:

1. Facilitate adequate and efficient provision of sites for wireless communication facilities.
2. Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable Village standards and conditions.
3. Recognize that operation of a wireless communication system may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.
4. Ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
5. 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.
6. Promote the public health, safety, and welfare.
7. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.
8. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
9. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice structures that are unnecessary, taking into consideration the purposes and intent of this section.
10. The Village Council finds that the presence of numerous tower and/or pole structures, particularly if located within or abutting 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 numerous tower and/or pole structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of

property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

- B. Permitted Uses.** Subject to the standards and conditions set forth in Subsection E.1., wireless communication facilities shall be permitted uses in the following circumstances.
1. An existing structure which will serve as an attached wireless communication facility within a nonresidential zoning district, where the existing structure is not, in the discretion of the Zoning Administrator and Building Official, proposed to be either materially altered or materially changed in appearance.
  2. A proposed collocation upon an attached wireless communication facility which had been preapproved for such collocation as part of an earlier approval by the Village.
  3. An existing structure which will serve as an attached wireless communication facility consisting of a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Zoning Administrator and Building Official, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.
  4. An existing structure of an essential service which will serve as an attached wireless communication facility, where the existing structure is not, in the discretion of the Zoning Administrator and Building Official, proposed to be either materially altered or materially changed in appearance.
- C. Special Approval Uses.** Subject to the standards and conditions set forth in Subsections E.1. and E.2., wireless communication facilities may be authorized as special approval uses by the Planning Commission under Article 19, on a lawfully used and existing structure not described in Subsection B, no part of which is a dwelling, as an attached wireless communication facility, where the existing structure will not be materially altered or materially changed in appearance.
- D. Special Approval Uses in Non-Permitted Districts or Zones.** If it is demonstrated by an applicant that there is no reasonable difference of opinion that a wireless communication facility may not reasonably be established as a permitted use under Subsection B, or as a special approval use under Subsection C, a wireless communication facility or a wireless communication support structure may be permitted elsewhere in the Village as a special approval use, subject to all the criteria and standards of Subsection E.
- E. General Regulations.**
1. **Standards And Conditions Applicable To All Facilities.** All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission in its discretion.
    - a) Facilities shall be located and designed to be harmonious with the surrounding area. Among other things, all reasonable attempts shall be made and thoroughly explored to utilize existing structures on which to place facilities, i.e., to utilize attached wireless communications facilities.
    - b) Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions, as confirmed by submission of a Certification of Compliance by the applicant's licensed engineer.
    - c) Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs that might result in lower heights.
    - d) 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 by other entities to collocate on the structure). In any case, a wireless communication support structure may not exceed 150 feet in height. Any accessory building contemplated to enclose such things as switching equipment, shall be limited to the maximum height for accessory structures or buildings within the respective district.

- e) The setback of the support structure from any residential district, and if within a residential district, from the property lines, 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 be no less than the height of the structure.
- f) Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located and otherwise sufficient, taking into account the information required by Subsection F.3.
- g) 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. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and, the type of equipment which will need to access the site.
- h) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
- i) Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be visually and architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard set-backs. For collocation facilities served by an accessory building, there should be a single, architecturally uniform accessory building for all providers.
- j) The design and appearance of the support structure and equipment enclosure shall minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
- k) The support system 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 of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- l) 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.
- m) 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, and shall be designed and constructed to maximize aesthetic quality.
- n) Applications made which do not include the signature of the licensed operator of a wireless communication service at the time of community processing may be tentatively approved, but shall not receive final approval unless and until the application has been amended to include a signature on behalf of a licensed operator. A tentative approval shall be valid for ninety (90) days. If, during a ninety (90) day tentative approval period, final approval is granted to authorize a wireless communication facility within two miles of the property on which a facility has been tentatively approved, such tentative approval shall thereupon expire unless the applicant granted tentative

approval demonstrates that it would not be feasible for it to collocate on the facility that has been newly granted final approval.

2. ***Standards and Conditions Applicable to Special Approval Use Facilities.*** Applications for wireless communication facilities which may be approved as special land uses under Subsection C, shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in Subsection E.1., and the following additional standards:
  - a) The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
    - 1) Proximity to an interstate or major thoroughfare.
    - 2) Areas of population concentration.
    - 3) Concentration of commercial, industrial, and/or other business centers.
    - 4) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
    - 5) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
    - 6) Other specifically identified reason(s) creating facility need.
  - b) The proposal shall be reviewed in conformity with the co-location requirements of this Article.
3. ***Standards and Conditions Applicable To Special Approval Uses In/On Non-Permitted Districts Or Structures.*** For facilities which are not permitted uses under Subsection B., and proposed to be located in a district or on a structure not identified in Subsection C., an application shall be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements, along with those in Subsections E.1. and E.2.
  - a) At the time of the submittal, the applicant shall demonstrate that a permitted special use location cannot reasonably meet the coverage and/or capacity needs of the applicant.
  - b) Wireless communication facilities shall be of a design such as (without limitation) a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Village.
  - c) In single-family residential neighborhoods, site locations other than those identified in Subsections B or C may only be permitted on the following sites (not stated in any order of priority), subject to application of all other standards contained in this section:
    - 1) Municipally owned site.
    - 2) Other governmentally owned site.
    - 3) Religious or other institutional site.
    - 4) Public park and other large permanent open-space areas when compatible.
    - 5) Public or private school site.
    - 6) Other locations if none of the above is available.

**F. Application Requirements.**

1. A site plan prepared in accordance with Section 19.02 of this Ordinance shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
2. The site plan shall also include a detailed landscaping plan where the support structure is being 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 and equipment enclosure.
3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, 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.

4. The application shall include a description of security to be posted at the time of receiving a building 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 below. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; (2) surety bond; (3) letter of credit; or, (4) an agreement in a form approved by the attorney for the community and recordable at the office of the Register of Deeds, to be held by the Village and recorded if needed, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the ordinance, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the community in securing removal.
5. 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 in the 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 be required only 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 ordinance 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 it to the attention of the Village.
6. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. Written notices of any changes in this information shall be provided to the Village immediately. This application information shall also be confirmed in writing on an annual basis.
7. 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. In addition, if a licensed entity intended to be the operator on the facility does not sign the application, approval shall be restricted as provided in the General Regulations, above.
8. The application fee, in the amount specified by resolution of the Village Council.

#### **G. Co-location.**

1. **Statement of Policy.** It is the policy of the Village to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the Village, and encourage the use of existing structures for attached wireless communication facility purposes, consistent with the statement of purpose and intent, set forth in Subsection A. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the Village that all users should co-locate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section, as stated above and in Subsection A.

If a provider fails to or refuses to permit co-location on a facility owned or otherwise controlled by it, where unnecessary additional structure will be compelled, he shall be in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Village. The provisions of this Subsection G.1. are designed to carry out and encourage conformity with the policy of the Village.

2. **Feasibility of Co-location.** Co-location shall be deemed to be “feasible” for purposes of this section where all of the following are met:

- a) The wireless communication provider entity under consideration for co-location will undertake to pay market rent or other market compensation for co-location.
- b) The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- c) The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- d) 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 several standards contained in parts D and F. of this Section, above.

### **3. Requirements for Co-location.**

- a) Special approval for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible co-location is not available for the coverage area and capacity needs.
- b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.
- c) The policy of the Village is for co-location. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- d) If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible co-location, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible co-location shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Village, and consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the Village for a period of ten years from the date of the failure or refusal to permit the co-location. Such a party may seek and obtain a variance from the Board of Zoning Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

- 4. **Incentive.** Review of an application for co-location, and review of an application for a permit for use of a facility permitted under subsection B, shall be expedited by the Village.

### **H. Removal.**

- 1. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
  - a) When the facility has not been used for 180 days or more. For purposes of this section, 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.

2. The situations in which removal of a facility is required, as set forth in Paragraph 1 above, may be applied and limited to portions of a facility.
3. Upon the occurrence of one or more of the events requiring removal, specified in Paragraph 1 above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Building Official.
4. If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the Village may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge 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 person who had used the facility shall immediately notify the Village Clerk in writing if and as soon as use of a facility ceases.

**I. Effect and Approval.**

1. Subject to the following paragraph 2., final approval under this section shall be effective for a period of six (6) months.
2. If construction of a wireless communication facility is commenced within two miles of the land on which a facility has been approved, but on which construction has not been commenced during the six month period of effectiveness, the approval for the facility that has not been commenced shall be void 30 days following notice from the Village of the commencement of the other facility unless the applicant granted approval of the facility which has not been commenced demonstrates that it would not be feasible for it to co-locate on the facility that has been newly commenced.

## **Section 13.26 VOTING PLACE**

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

## **Section 13.27 STATE LICENSED CHILD AND ADULT CARE FACILITIES**

Residential care facilities (as defined in Section 2.02) shall be permitted in zoning districts as indicated in the following table:

Type of Facility	Districts				
	RV, RL	RM	DC	CC	MU
Child care center	S	S	NP	S	S
Foster family home	P	P	NP	NP	NP
Foster family group home	P	P	NP	NP	NP
Family child care home	P	P	NP	NP	NP
Group child care home	S	S	NP	NP	NP
Adult foster care small group home	S	S	NP	NP	NP
Adult foster care large group home	S	S	NP	S	S
Adult foster care family home	P	P	NP	NP	NP

P = Principal Permitted Use

S = Special Land Use

NP = Not Permitted

## Section 13.28 SIGNS

The erection, construction or alteration of all outdoor advertising structures, billboards, signs, and other notices which advertise a business, commercial venture or name of a person or persons shall be subject to the provisions of the Village's Sign Ordinance.

## Section 13.29 ADULT REGULATED USES

- A. **Purpose and Intent.** In the development and implementation of this Section, it is recognized that there are certain uses, which by their very nature are recognized as having serious objectionable operational characteristics (particularly when several of them are concentrated in a small area), thereby having a deleterious effect on surrounding neighborhoods. Regulation of the location of these uses is necessary to ensure that the adverse effects of such businesses will not cause or contribute to the blighting or downgrading of the Village's residential neighborhoods or commercial center. The proximity of adult uses to certain uses considered particularly susceptible to the negative impacts or the concentration of adult uses tends to erode the quality of life, adversely affect property values, disrupt business investment, encourage residents and businesses to move out of or avoid the community, increase crime and contribute a blighting affect on the surrounding area. It is the intent of this Section to provide reasonable regulations for the establishment of adult regulated uses where the adverse impact of their operations may be minimized. These regulations do not legitimize activities if they are prohibited by other Village Ordinances.

The provisions of this Section are not intended to offend the guarantees of the First Amendment to the United States Constitution, or to deny adults access to these types of businesses and their products, or to deny such businesses access to their intended market. Neither is it the intent of this Section to legitimize activities that are prohibited by Village ordinance or state or federal law. If any portion of this Section relating to the regulation of adult businesses is found to be invalid or unconstitutional by a court of competent jurisdiction, the Village intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The Village further states that it would have passed and adopted what remains of any portion of this Section relating to regulation of adult businesses following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

- B. **Findings and Rationale.** Based on evidence of the adverse secondary effects of adult regulated uses presented in hearings and in reports made available to the Village Council, and on findings, interpretations, and narrowing constructions incorporated in the cases contained in Appendix A to this Zoning Ordinance, and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to those listed in said Appendix A, as well as the articles on adult regulated uses identified in said Appendix A, the Village Council finds:
1. Adult regulated uses, as defined in Section 2.02, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on property values, urban blight, litter, and sexual assault and exploitation.
  2. Adult regulated uses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other such uses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of such uses in one area.
  3. Each of the foregoing negative secondary effects constitutes a harm which the Village has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the Village's rationale for this ordinance, exists independent of any

comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the Village's interest in regulating adult regulated uses extends to preventing future secondary effects of either current or future adult regulated uses that may locate in the Village. The Village finds that the cases and documentation relied on in this Section are reasonably believed to be relevant to said secondary effects.

- C. **Required Spacing.** The establishment of an adult regulated use shall meet all of the following spacing requirements, with the distance between uses measured horizontally between the nearest point of each property line.
1. At least 1,000 feet from any other adult regulated use.
  2. At least 500 feet from any place of worship.
  3. At least 500 feet from all public, private, or parochial nursery, primary or secondary schools, licensed child care facilities, and hospitals.
  4. At least 200 feet from any one-family or multiple-family residential district or use.
  5. At least 500 feet from any pool or billiard hall, coin-operated amusement center, indoor or outdoor recreation facility, movie theater, or similar uses frequented by children and teenagers.
- D. **Required Zoning and Site Design Standards.** Adult regulated uses are only allowed in the MU and CC zoning districts after special land use approval by the Planning Commission following the requirements of Section 19.03 of this Ordinance, except that the standards listed under Section 19.03.G. shall be limited to the size, location, physical features, effects and impacts of the site and building development without regard to use. Adult regulated uses must comply with all of the following standards:
1. Maximum size of the building shall be 3,000 square feet.
  2. Adult regulated uses shall be located within a free-standing building. A shared or common wall structure or shopping center is not considered to be a free-standing building.
  3. The colors of the building façade shall be subject to approval by the Planning Commission.
  4. A four and one-half (4 ½) foot high brick or masonry wall shall be constructed to screen the parking lot from the adjacent public right-of-way. The Planning Commission may permit use of landscaping in place of a wall.
  5. No person shall reside in or permit any person to reside in the premises of an adult regulated use.
  6. No person operating an adult regulated use shall permit any person under the age of 18 to be on the premises of said use either as an employee or customer.
  7. Adult regulated uses shall comply with all applicable federal, state, and local licensing regulations. Initial and annual proof of such compliance shall be a condition of special land use approval and the continuance thereof.

## Section 13.30 ANIMALS

No livestock shall be kept or maintained in any district, excluding the keeping of backyard poultry, as regulated below, and except that for each dwelling unit the occupant may keep for his personal use domestic pets so long as they are not kept or used for commercial breeding or boarding purposes, subject to all applicable Village ordinances.

- A. **Permit Required.** Any person residing in the RV, Single Family Residential District may keep hen chickens in compliance with the following:
1. A maximum of four (4) chickens are permitted on any RV zoned property;

2. Roosters are prohibited;
3. Slaughtering is prohibited;
4. Chickens shall be provided, and remain within, at all times, a fully enclosed coop and fenced enclosure, with a maximum area of 300 square feet for both.

**B. Coop Requirements.**

1. Minimum size of four (4) square feet per chicken;
2. Must be fully enclosed, except for the opening leading to additional fenced area (if included) and constructed so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure;
3. Must be clean, dry, odor-free and kept in a neat and sanitary condition;
4. The coop may not be located within any side or front yard and may not be closer than 30 feet from any dwelling on a neighboring property or ten feet from any property line.
5. Any and all feed not in current use in the coop shall be stored indoors or in a rodent proof container.
6. Waste materials (feed, manure and litter) should be disposed of in an environmentally responsible manner. The materials can be composted or bagged and disposed of in the trash. It is not acceptable to pile waste materials on the property.

**C. Location.** A Zoning Compliance Permit Application, along with a sketch plan, must be submitted which indicates the location of the coop, along with any associated fencing, all dimensions, and the setbacks from the applicable lines.

**D. Permits.** A permit must be obtained annually from the Village to ensure continued compliance with the above standards. A permit is valid for only one year and creates no vested right to continue the use of the coop. Upon expiration or revocation of a permit, the keeping of chickens allowed by this section is no longer permitted.

1. The Village of Lake Orion may revoke a permit issued to a person convicted of animal cruelty in the State of Michigan.
  - a) Complaints about noise, specifically frequent, ongoing, or long continued noise that disturbs the comfort of any persons in the vicinity;
  - b) Complaints about odor, specifically foul, noisome, or unpleasant odors that are frequent, ongoing, or long-continued and disturb the comfort of any persons in the vicinity;
  - c) Complaints about vermin, specifically the frequent, ongoing, or long-continued presence of such vermin as (but not limited to) mice, rats, raccoons, and possum;
  - d) Failure to comply with the provisions listed under keeping of chickens.
2. The Village of Lake Orion may revoke a permit issued to a person convicted of animal cruelty in the State of Michigan.
3. The issuance of a permit under this provision shall be deemed to grant the Village and the Village's Building Authority the right to inspect to ensure compliance with the provisions herein.

**E. Restrictions.** Notwithstanding the issuance of a permit by the Village, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

## Section 13.31 Short-Term Rentals

- A. **Permit Required.** In the development and implementation of this Section, it is recognized that short-term rentals are a commercial use, which is recognized as having serious objectionable operational characteristics (particularly when several of them are concentrated in a small area, including increased traffic, excessive noise, and unwanted trash), and thereby have a deleterious effect on the character and function of neighborhoods.
- B. Short-term rentals are defined as the rental of any dwelling unit, or any unit or group of units, for terms of less than 30 days. The rental of the following facilities shall not be considered short-term rentals and require separate review considerations and processes: (i) motels, resorts, campgrounds (ii) transitional houses operated by a charitable organization, group homes such as nursing homes and adult foster-care homes, substance-abuse rehabilitation clinics, mental-health facilities and other similar healthcare related facilities, and bed and breakfast facilities with limited special land uses.
- C. Short-term rentals are not permitted in any Village zoning district or residence.

# Article 14.

## Parking and Loading

### Section 14.01 PARKING REQUIREMENTS

In all zoning districts, off-street parking facilities for the storage and parking of motor vehicles for the use of occupants, employees and patrons of the buildings shall be provided as herein prescribed.

#### A. General Requirements

1. **Plan Required.** For required parking areas and loading zones, a plan shall be submitted showing the areas set aside for parking and loading zones. Land set aside for required parking and loading shall be maintained for the purpose required, unless an equivalent number of parking and loading spaces are provided elsewhere and approved by the Village in conformance with this Ordinance.
2. **Area.** For the purpose of this Section, a minimum of 280 square feet of lot area shall be deemed a parking space for one (1) vehicle, including access aisle, except that 180 square feet of lot area which has a direct means of ingress and egress from an alley or street may also be deemed a parking space.
3. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
4. **Loading Space Limitations.** Loading space as required in Section 14.05 shall not be construed as supplying off-street parking space.
5. **Location of Parking Spaces for One and Two Family Dwellings.** The off-street parking facilities required for one and two-family dwellings shall be located on the same lot as the building they are intended to serve.
6. **Location of Parking Spaces for Other Land Uses.** The off-street parking facilities required for all other uses shall be located on the site of the permitted use requiring such off-street parking, except that the Planning Commission may permit up to 50 percent of the required parking to be located off-site but within 300 feet of the site. Approval of off-site parking under this Section shall be subject to the petitioner presenting written agreement in recordable form verifying the right to use the off-site property for parking, and the Planning Commission concurring that the off-site parking spaces are available for parking use at the times needed by the petitioner.
7. **Shared Parking.** Nothing in this Section shall be construed to prevent collective provision of off-street parking facilities for two (2) or more buildings or uses, provided such off-street parking facilities collectively shall not be less than the sum of the requirements for the individual uses computed separately. The uses that share parking facilities may be located within a single building or in separate buildings located on the same or different sites.
8. Notwithstanding the foregoing, the Planning Commission may, in its discretion, approve a lesser number of parking spaces based upon the following:
  - a) **Computation.** The number of shared parking spaces required for two or more land uses sharing a parking lot or located on the same parcel of land shall be determined by the following procedure:



- 1) Multiply the minimum parking required for each individual use, as set forth in Table 14.02, by the appropriate percentage indicated in Table 14.01 for each of the six (6) designated time periods.
  - 2) Add the resulting sums for each of the six (6) columns.
  - 3) The minimum parking requirement shall be the highest sum among the six (6) columns resulting from the above calculations.
- b) *Other Uses.* If one or all of the land uses proposing to make use of shared parking facilities do not conform to the general land use classifications in Table 14.02, as determined by the Planning Commission, the applicant shall submit sufficient data to indicate the principal operating hours of the uses. Based upon this information, the Planning Commission shall determine the appropriate shared parking requirement, if any, for such uses.

**Table 14.01 – Shared Parking Calculations**

Land Use	Weekdays			Weekends		
	1 a.m. – 7 a.m.	7 a.m. – 6 p.m.	6 p.m. – 1 a.m.	1 a.m. – 7 a.m.	7 a.m. – 6 p.m.	6 p.m. – 1 a.m.
Office/Service	5%	100%	5%	0%	15%	0%
Commercial	0%	100%	80%	0%	100%	60%
Restaurant	20%	70%	100%	30%	75%	100%
Residential/Motel	100%	60%	100%	100%	75%	95%

- c) Any uses proposing to share parking shall be subject to the provisions of 14.01.A.5. and 6., above.
  - d) A written agreement between joint users in a recordable form approved by the Village shall be filed with the Oakland County Register of Deeds and a copy shall be provided to the Village. The agreement shall assure the continued availability of the parking facility for the uses it is intended to serve.
  - e) A site that has been approved for a reduced shared parking standard shall not change to another use or combination of uses without review and approval of the Planning Commission.
9. **Banked Parking.** The Planning Commission may require the banking of required parking spaces where installation is determined not to be immediately necessary. Banked parking areas, including parking spaces and maneuvering aisles, shall be clearly designated on the site plan and set aside as landscaped open space. Banked parking shall be located in areas which are suitable for future parking and shall comply with all Ordinance requirements, including storm water runoff requirements. Once approved, the banked parking shall be constructed upon request by the Zoning Administrator, after three (3) incidents of problem parking on the site are documented within any one (1) year period.

#### **10. General Use Conditions.**

- a) The purpose and intention of these parking requirements is to provide off-street parking spaces for cars in the interest of the public health safety and welfare. The parking or storage of wrecked or junked cars, trailers, mobile homes, travel homes, boats, or boat trailers in off-street parking areas is prohibited unless otherwise permitted by this Zoning Ordinance. Refer to Section 13.17 for additional regulations relating to recreational vehicles.
- b) Motor vehicles shall not be parked or stored for continuous periods of more than 24 hours in any off-street parking space, except when the land is used as storage space approved by the Planning Commission in connection with a repair or service garage or similar use, or when the vehicle(s) are

the private passenger vehicles of the residential occupants of dwellings in a mixed use development and the vehicles are located on the same site as the mixed use development.

11. **Existing Off-Street Parking.** Off-street parking existing at the effective date of this Ordinance that serves an existing building or use shall not be reduced in number of spaces to less than that required for that building or use under the terms of this Ordinance.

## Section 14.02 OFF-STREET PARKING REQUIREMENTS

- A. **Scope of Requirements.** The number of required off-street parking spaces for new or expanded uses or buildings shall be determined in accordance with the requirements of this Article. The number and location of spaces required shall be illustrated on the site plan, if a site plan is otherwise required by this Ordinance, and shall be irrevocably reserved for the use.

- B. **General Requirements**

1. **Residential Parking.** Required off-street parking spaces for single-family dwellings may be accommodated in a driveway and/or garage, provided that no vehicle parking space provided to meet the requirements of this Ordinance shall extend over any portion of a lot line, street right-of-way line, or public street sidewalk. Further, there shall be no parking permitted in the required or non-required front yard of a single family dwelling, except in a driveway or garage.
2. **Maximum Parking Permitted.** In order to minimize excessive areas of pavement, which depreciate aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking requirement by greater than twenty (20) percent shall not be permitted, except as approved by the Planning Commission. In granting such additional parking, the Planning Commission shall determine, based on documented evidence, provided by the applicant or documented from similar uses or facilities within the region, that the additional parking will be required to accommodate the proposed use on a typical day. This requirement does not apply to single family dwelling units.
3. **Minimum Parking Required.** The number of off-street parking spaces required shall be determined in accordance with Table 14.02. However, the Planning Commission may modify the numerical requirements of this Section for off-street parking. The modification to increase or decrease the number of off-street spaces required shall be based on satisfactory evidence provided by the applicant, or as may be documented from similar uses or facilities within the region that the reduced number of spaces will be sufficient, or that an increased number of spaces are necessary to accommodate the proposed use on a typical day.
4. The Planning Commission may attach conditions to the approval of a modification of the requirements that bind such approval to the specific use in question.
5. **Uses Not Listed.** For uses not specifically listed in Table 14.02, the default parking standard for that type of use shall apply, unless the Planning Commission determines that the standard for a similar use is more appropriate.
6. **Uses Meeting More Than One Category.** Where more than one use is present in a building or site, such as a gas station with convenience store and restaurant, the various components of the use shall comply with the requirement for each component. In such a case, the applicant must provide information regarding the floor area, employees, or other relevant information for each use in order to allow the Village to determine the minimum parking requirement for the use.

**TABLE 14.02 – SCHEDULE OF MINIMUM REQUIRED OFF-STREET PARKING**

LAND USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED
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**TABLE 14.02 – SCHEDULE OF MINIMUM REQUIRED OFF-STREET PARKING**

<b>LAND USE</b>	<b>NUMBER OF OFF-STREET PARKING SPACES REQUIRED</b>
<b>COMMUNITY AND RECREATION USES</b>	
DEFAULT PARKING STANDARD	1 space per 3 persons permitted at maximum occupancy
School, elementary or middle	1 space per employee + 1 space per 3 persons permitted at maximum occupancy for auditoriums and gyms
School, high	1 space per employee + 1 space per each 10 students + 1 space per 3 persons permitted at maximum occupancy for auditoriums and gyms
Hospital or urgent care center	1 space per 3 beds + 1 space per each 5 employees in the maximum shift
Municipal buildings and uses	1 space per employee
Nursery schools and child care centers	1 space per 10 pupils + 1 space per employee
Places of worship	1 space for each 3 seats based on the maximum seating capacity in the main worship hall
Boat launch, public or private	24 combined vehicle and boat trailer spaces per each 1 individual boat ramp.
Boat liveries and marinas, public or private without boat launch facilities	1 for each 1 boat slip, + 1 for each employee + such space as is required for affiliated facilities.
<b>COMMERCIAL, OFFICE, AND RETAIL USES</b>	
Automobile gas station or service station	Two (2) for each lubrication stall, rack or pit; and one (1) for each employee.
Car wash	1 space per employee + 8 stacking spaces per wash line or bay
Drive-in or drive-through facility	8 stacking spaces per service window
Hotel, motel, or other lodging	1.1 spaces per room + spaces required for meeting rooms, dining rooms and similar associated uses
Office, medical or professional	1 space per 350 sq. ft. of gross floor area
Outdoor sales	1 space per 1,000 sq. ft. of outdoor sales or display area
Places of assembly (where parking demand is generated by occupancy rather than floor area, such as banquet halls, movie theaters, etc.)	1 space per 3 persons permitted at maximum occupancy

TABLE 14.02 – SCHEDULE OF MINIMUM REQUIRED OFF-STREET PARKING	
LAND USE	NUMBER OF OFF-STREET PARKING SPACES REQUIRED
Restaurant	1 space per 3 persons permitted at maximum occupancy
Retail sales and service establishments	1 space per 250 sq. ft. of gross floor area
Warehousing or wholesale establishments	1 space per 1,700 sq. ft. of gross floor area + 1 space per 350 sq. ft. of office gross floor area
<b>RESIDENTIAL USES</b>	
Elderly housing, independent living and senior apartments	1 space per dwelling unit + 1 space per employee. If units revert to general occupancy, 2 spaces per unit shall be provided.
Elderly housing, dependent (including congregate care, nursing homes and assisted living)	0.5 spaces per resident sleeping room + 1 per employee.
Multiple family	2 spaces per dwelling unit
One and two-family dwellings	2 for each dwelling unit

*Footnote to Table 14.02 – See also Section 14.08 for standards for the DC District.*

### **Section 14.03 OFF-STREET PARKING FOR PHYSICALLY HANDICAPPED PERSONS**

- A. Accessible off-street parking facilities for physically handicapped persons shall be provided in accordance with Table 14.03.
- B. Signs shall be provided identifying accessible parking facilities reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade.
- C. Parking spaces shall comply with the following dimensional requirements, which are based on the Americans With Disabilities Act (ADA) design guidelines. Should the ADA design guidelines be changed so that the following regulations are no longer consistent with the current ADA design guidelines, the most current ADA design guidelines shall prevail.
  1. Each accessible parking space shall be not less than eight (8) feet wide and shall be adjacent to a minimum five (5) foot wide access aisle.
  2. One (1) out of every eight (8) accessible parking spaces shall be a van accessible space, with a minimum of one (1) van accessible space being required. Van accessible parking spaces shall be eight feet wide and adjacent to an eight (8) foot wide access aisle.

3. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access.
4. Accessible parking spaces shall be located as close as possible to walkways and entrances. Signs shall be provided when necessary indicating the direction of barrier-free travel to an accessible entrance.

**Table 14.03 – Required Accessible Off-Street Parking Spaces**

Total Parking Spaces	Required Number of Accessible Spaces
Up to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
Over 150	1 additional space for each 50 spaces or fraction thereof

## Section 14.04 PARKING LOT LAYOUT, CONSTRUCTION AND MAINTENANCE

Wherever a parking lot is built as required off-street parking, such parking lot shall be laid out, constructed and maintained in accordance with the following requirements:

- A. **Permit Required.** The construction of any parking lot shall be in accordance with the provisions of this Ordinance and Village accepted engineering standards. Such construction shall be approved by the Village and a permit issued before the construction of any parking lot that is not part of an approved site plan. Applications for a permit shall be submitted in such form as determined by the Village and shall include five (5) sets of site plans signed and sealed by a Registered Engineer, Land Surveyor, Architect or Planner. The plans shall indicate existing and proposed grades, drainage, water mains and sewers, surfacing and base materials to be used and the general layout of the proposed parking lot.
- B. **Layout and Construction Requirements.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements: (See Table 14.04 and illustration “Parking Layouts”)

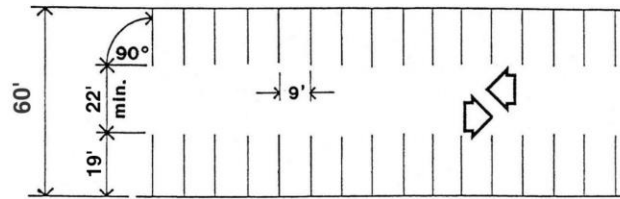
**Table 14.04 – Minimum Parking Layout Requirements**

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
75° to 90°	22 ft.	9 ft.	19 ft.	41 ft.	60 ft.
54° to 74°	18 ft.	9 ft.	20 ft.	40 ft.	61 ft.
30° to 53°	13 ft.	9 ft.	20 ft.	35.5 ft.	53 ft.
0° (Parallel Parking)	12 ft.	8 ft.	23 ft.	20 ft. one way 32 ft. two way	28 ft. one way 40 ft. two way

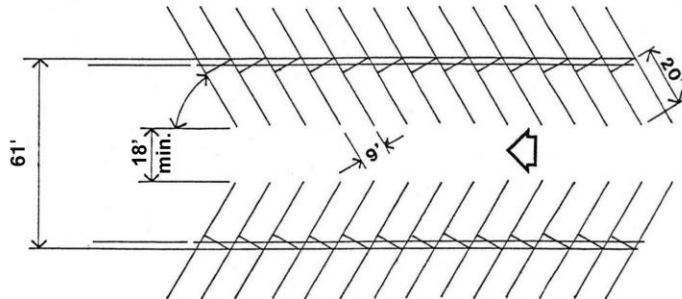
1. All parking lots shall have a paved surface and shall be graded and drained so as to dispose of surface water that might accumulate within or upon such area and shall be striped. No surface water from a parking area shall be permitted to drain onto adjoining private property or across a public sidewalk. All parking lots shall be continuously maintained with a hard, smooth, dust-proof surface at all times.
2. Parking lot lighting shall comply with the requirements of Section 15.03.

3. In all cases where parking lots abut public sidewalks, continuous concrete curbing, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked with any part of the vehicle extending within two (2) feet of a public sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets, and sidewalks, curbs shall be installed.
4. Adequate means of ingress and egress shall be provided and shown on a plan submitted for approval by the Planning Commission and the Chief of Police. No entrance or exit from any parking lot shall be nearer than 20 feet to any residentially zoned district. The radius for the drive may project within the 20 foot setback.
5. All land between the boundaries of the parking lot and the barriers referred to in this Section, as well as the surface of the parking area, shall be kept free from tall grass, weeds, rubbish, refuse, and debris, and shall be landscaped to conform with the neighborhood.
6. Notwithstanding the above construction standards for paving, drainage and curbing, the Planning Commission may approve alternative designs that promote water and stormwater quality.

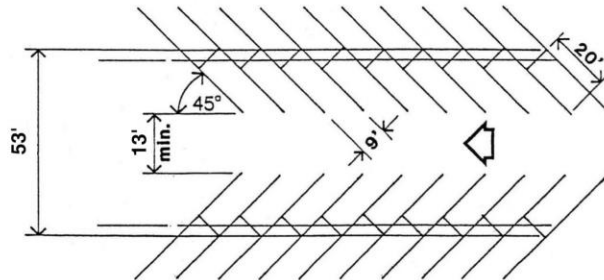
75 to 90  
degree



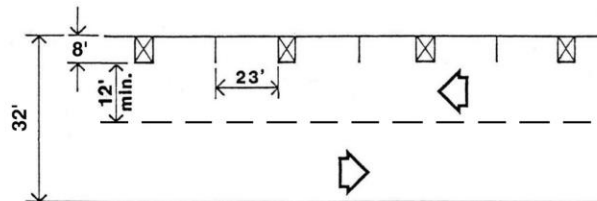
54 to 74  
degree



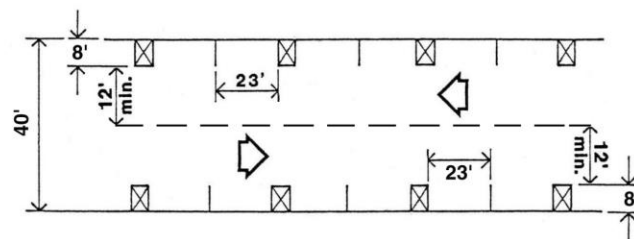
30 to 53  
degree



0 degree  
(parallel parking)



0 degree  
(parallel parking)



## Parking Layouts

## Section 14.05 OFF-STREET LOADING REQUIREMENTS

- A. Adequate space for loading and unloading shall be provided on the same lot as any building or use involving the receipt, sale, or distribution of materials or merchandise.
- B. Each required loading space shall be an area ten (10) feet by 50 feet, with 14 foot height clearance.
- C. Loading spaces shall be provided as required by Table 14.05 unless, in the determination of the Planning Commission, the use's loading and unloading needs are otherwise provided for, or the Planning Commission determines a greater or lesser standard would be more appropriate based upon the specific loading needs and characteristics of the use as presented by the applicant or identified by the Commission.

Table 14.05 – Schedule of Minimum Required Loading Spaces	
Gross Floor Area (In Square Feet)	Loading Spaces Required
0 – 2,000	None
2,000 – 20,000	One (1) space
Over 20,000	One (1) space plus one (1) space for each 20,000 sq. ft. in excess of 20,000 sq. ft.

- D. No loading space shall be located closer than 50 feet to any residentially zoned or used parcel unless located within a completely enclosed building or enclosed on all sides facing the residentially zoned or used parcel by a solid masonry wall or landscaped barrier in accordance with the requirements of Section 15.02.F.

## Section 14.06 OFF-STREET STACKING AREA FOR DRIVE-THROUGH FACILITIES

- A. On the same premises with every building, structure, or part thereof erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement (such as drive-through banks or drive-through cleaning establishments), there shall be provided eight (8) off-street stacking spaces unless the Planning Commission determines a lesser standard is appropriate.
- B. Motor vehicle car wash establishments shall provide eight (8) off-street stacking spaces for each washing lane.
- C. Off-street stacking spaces shall be designed so that waiting vehicles do not queue onto adjacent streets, properties, or rights-of-way.
- D. An off-street stacking space is defined as an area ten (10) feet wide by 20 feet long.
- E. A bypass lane shall be provided so that stacked vehicles do not block or impede circulation on the site, on adjacent sites or on public streets.

## Section 14.07 BOAT LAUNCH PARKING LOT LAYOUT

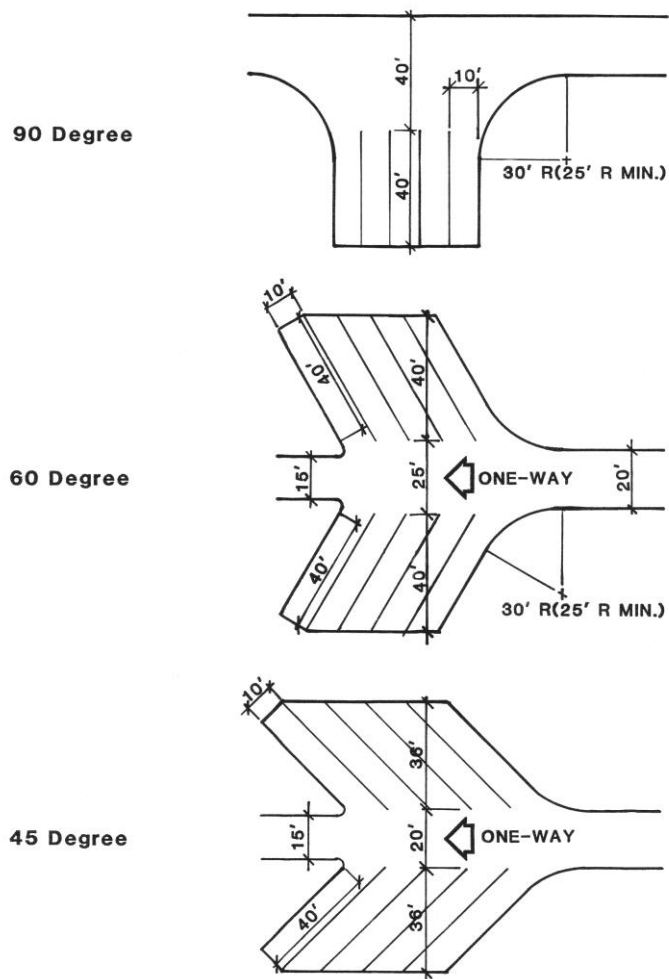
Wherever a parking lot is built as required boat launch parking, such parking lot shall be laid out in accordance with the following requirements:



**Table 14.07– Minimum Boat Launch Parking Layout Requirements**

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
90°	40 ft.	10 ft.	40 ft.	80 ft.	120 ft.
60°	25 ft.	10 ft.	40 ft.	65 ft.	105 ft.
45°	20 ft.	10 ft.	40 ft.	56 ft.	92 ft.

## Boat Launch Parking



## **Section 14.08 MODIFIED OFF-STREET PARKING REQUIREMENTS IN THE DC, DOWNTOWN CENTER DISTRICT**

- A. Recognizing that the developed character of Downtown Lake Orion makes the provision of private off-street parking difficult, and that shared public parking lots and on-street parking spaces are located in the Downtown area, on-site parking is not required for non-dwelling uses or buildings located in the DC District.
- B. Subject to the creation of a Village parking fund, the Planning Commission may require that a cash payment be made into that parking fund. The payment shall be in an amount equal to the estimated cost to the Village of providing the number of parking spaces otherwise required.
- C. The off-street parking requirement for residential dwelling units (excluding one or two-family dwellings) as specified in Table 14.02 shall be satisfied by providing a dedicated off-street parking space or spaces, as the case may be, within 300 feet of the building in which the residential use is located. The private passenger vehicles of the residential occupants of dwellings in the DC District may park for periods longer than 24 hours in dedicated off-street parking spaces in parking lots and other locations that have been approved by the Village for that purpose.
- D. The Zoning Administrator may issue permits to the residents of dwelling units in the DC District allowing overnight parking on public streets, courts, alleys and municipal parking lots.
- E. Any use or building which provides on-site parking facilities shall construct and maintain those facilities consistent with the standards of this Ordinance.

# Article 15.

## Site Development Standards

### Section 15.01 STATEMENT OF PURPOSE

The purpose of these site development standards is to:

- A. Protect and preserve the appearance, character, and value of the Village neighborhoods and commercial areas, thereby reducing conditions which lead to blight.
- B. Promote the public health, safety and general welfare by reducing conditions that lead to noise, water and air pollution, visual pollution, thermal pollution and light glare.
- C. Prevent soil erosion and soil depletion, thereby enriching the soil.
- D. Increase soil water retention, thereby helping to prevent flooding.
- E. Improve the amenity of pedestrian movement within paved areas and along public rights-of-way.

### Section 15.02 LANDSCAPING AND SCREENING

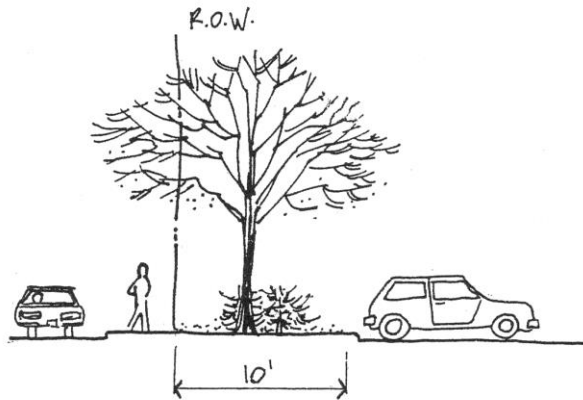
- A. Scope of Application
  - 1. The provisions of this Section shall apply to all lots which hereafter are changed, developed or expanded in a manner that requires a site plan approved by the Village.
  - 2. No site plan shall be approved unless it includes landscaping consistent with the requirements of this Section.
  - 3. The requirements of this Section are minimum landscaping requirements and nothing herein shall preclude a developer and the Village from agreeing to more extensive landscaping.
- B. **Installation and Maintenance.** In cases where the installation and maintenance of landscaping is required, the following standards shall be observed:
  - 1. Installation. Landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures with the quality of plant materials as hereinafter described. Landscape areas shall be protected from vehicular encroachment. Landscape areas shall be elevated above the pavement to a height adequate to protect plant materials from snow removal operations, salt, and other hazards. If building or paving construction is completed in an off-planting season, a temporary certificate of occupancy may be issued only after the owner provides money in escrow to ensure the installation of required landscaping in the next planting season.
  - 2. Maintenance. Landscaping required by this Section shall be maintained in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All unhealthy and dead material shall be replaced within 30 days or the next appropriate planting period. All landscape areas shall be provided with a readily available and acceptable water supply.

C. **DC Downtown Landscaping.** Parcels located in the DC, Downtown Center District shall be exempt from the requirements of this Section 15.02, with the exception of the following:

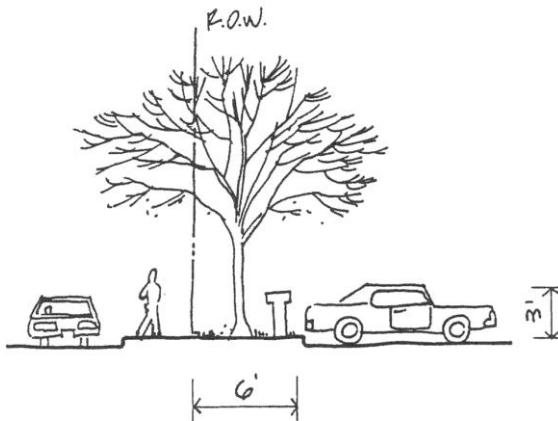
1. Trees shall be provided to enhance the building and street where determined appropriate by the Planning Commission.
2. Planter boxes or other landscape features shall be incorporated where appropriate.
3. Outdoor utility equipment, such as transformers, shall be screened to the greatest extent possible by fences, walls, planter boxes or landscape features.

D. **M-24 Buffer Strip Landscaping Requirements.** Parking lots and vehicular use areas on a lot that abuts the M-24 right-of-way shall have landscaping installed and maintained between the parking lot or vehicle use area and the right-of-way. The landscape buffer strip shall be installed so as to provide, within a reasonable time, an effective barrier to vehicle lights and physical encroachment. The buffer strip shall be accomplished by one or more of the following options:

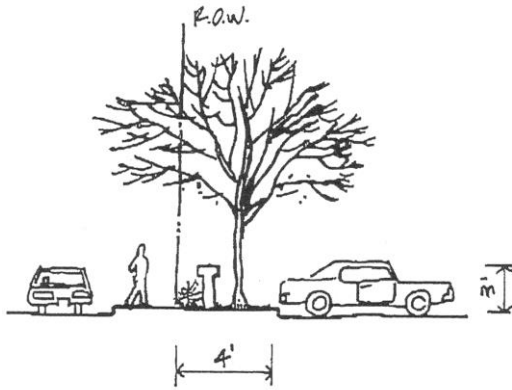
1. A minimum ten (10) foot buffer area between the off-street parking and/or vehicular use area and the street right-of-way line to include one (1) deciduous shade tree per 40 feet or fraction thereof of street frontage of the parking lot and plantings of at least ten (10) upright shrubs for every 25 feet or fraction thereof of street frontage of parking lot. The shrubs shall be planted as a continuous hedge.



2. A minimum six (6) foot buffer area between the parking lot and the street right-of-way line to include a 36 inch high decorative metal fence. The fencing shall contain four (4) inch spacing between metal pickets with brick pilasters spaced 24 feet apart, capped, and at least 16 to 21 inches wide. The minimum landscaping required in conjunction with the metal fence is one (1) deciduous shade tree for every 40 feet and five (5) shrubs for every 25 feet or fraction thereof of street frontage of parking lot.



3. A minimum four (4) foot buffer area between the parking lot and the street setback line to include a 36 inch high masonry screening wall in conjunction with the minimum landscaping requirement of one (1) deciduous shade tree for every 40 feet or fraction thereof of street frontage of the parking lot. The wall shall be constructed of brick or masonry block and shall also include a concrete stone or masonry cap providing one-half (1/2) inch reveal on both sides.



4. Screening and buffering options are summarized in the following chart:

PARKING AREA SCREENING		
Parking Area Screening Options	Minimum Buffer Dimensions (in feet)	Minimum Landscaping Requirements
Landscape strip	10	1 deciduous shade tree per 40 feet 10 shrubs per 25 feet
3 foot high decorative metal fence	6	1 deciduous shade tree per 40 feet 5 shrubs per 25 feet
3 foot high wall	4	1 deciduous shade tree per 40 feet

5. Corner lots that have parking lots or vehicular use areas abutting both M-24 and one (1) or more side street(s) shall provide a landscape buffer strip along each right-of-way. In the case of triangular or irregular shaped lots, the Planning Commission may approve landscaping of a lesser width.

**E. Protective Screening Between Residential and Nonresidential Districts.** Adequate protective screening for residentially zoned or used properties shall be provided by adjacent commercially zoned or used property by installation and maintenance of one of the following options along the length of the nonresidential property.

1. A reinforced decorative masonry wall, six (6) feet in height above grade. The wall shall be protected from automotive hazard by concrete curbing, or a landscape strip that is a minimum of four (4) feet wide. A wall shall not be permitted where there is a public street located between the nonresidential district and the residentially zoned or used property.

2. A minimum 20 foot wide greenbelt including a staggered double row of evergreen trees spaced a maximum of 12 feet on center and one (1) shade tree per 40 linear feet or fraction thereof.
3. A minimum six (6) foot wide greenbelt including upright evergreen shrubs sufficient to form an opaque screen within two years of planting. Such shrubs shall have a minimum height of five (5) feet at planting, and shall be maintained at no less than five (5) feet in height.

**F. Parking Lot and Loading Area Landscaping Requirements**

1. Interior and Perimeter Landscaping.
  - a) Landscaping areas equivalent to 5% of the vehicle use area shall be required for all parking lots of 20 spaces or more. One deciduous shade tree shall be required for each 150 square feet of interior landscape area. The vehicle use area includes all areas used for vehicular circulation and parking.
  - b) Parking lot divider medians with a minimum width of eight (8) feet may be used to meet interior landscape requirements and shall form a continuous strip between abutting rows of parking. If satisfactory means is provided to prevent the encroachment of vehicles over the median, a parking lot divider median may be as little as four (4) feet wide and count toward the interior landscape requirements. One shade tree or two ornamental trees shall be required for each 30 feet of divider median or fraction thereof. Shrubs shall be planted to form a continuous hedge the full length of divider medians which separate parking areas from access drives.
  - c) Two (2) feet of said interior landscape areas may be part of each parking space required under Article 14 of this Ordinance. Wheel stops or curbing shall be installed to prevent vehicles from encroaching more than two (2) feet into any interior landscaped area
  - d) Perimeter landscaping shall be provided along the edge of any parking lot facing and located within 100 feet of a public right-of-way or the Lake, unless, in the opinion of the Planning Commission, the parking lot will be sufficiently screened from view by buildings or other site features or improvements.
  - e) Perimeter parking lot landscaping shall include a minimum of one (1) deciduous shade tree per each 30 linear feet or fraction thereof, and a continuous hedge of deciduous or upright evergreen shrubs planted not more than 30 inches on center. Along M-24, the M-24 buffer strip requirements shall satisfy this section.
2. Loading Area Screening. Vehicle use areas, including service areas, loading areas shall be screened from adjacent residentially zoned or used areas and from the public right-of-way. Such screening may be accomplished by a masonry wall, building wing wall, or densely planted landscape buffer, or other means acceptable to the Planning Commission.

**G. Detention Pond Landscaping Requirements.** Landscaping shall be required around stormwater detention ponds as follows:

1. Plantings shall replicate a natural environment by using plants and trees that are native to the Upper Great Lakes area. Deciduous shade and ornamental trees, shrubs, perennials, grasses and other groundcover shall be clustered around the basin to achieve an attractive naturalized appearance.
2. Deciduous shade trees shall be provided around the detention pond at the rate of at least one (1) tree per 50 feet of pond perimeter area, measured at the freeboard elevation, and one (1) ornamental tree per 75 feet of pond perimeter area. Required trees may be clustered, and are not required to be planted at regular intervals.
3. Trees shall be planted above the freeboard line of the pond. Any plantings proposed below the freeboard line shall be tolerant of wet or moist soil conditions. The location of plant materials shall take into consideration the need to provide access for routine pond maintenance.

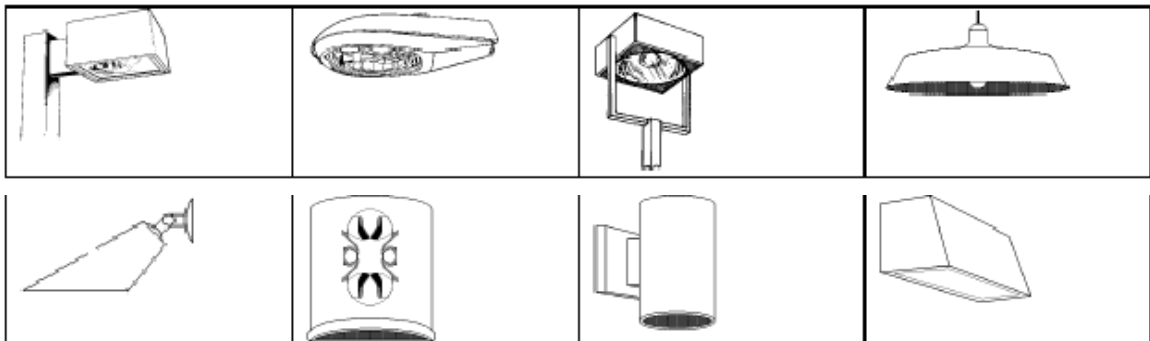
- H. **Plant Materials and Landscape Elements.** All plant materials and landscape elements used shall comply with the following standards:
1. **Plant Quality.** Plant and grass materials used in compliance with provisions of this Section shall conform to standards of the Michigan Association of Nurserymen and shall have passed any inspections required under state regulations. Grass shall be species normally grown as permanent lawns in Oakland County, and shall be clean and free of weeds and noxious pests or diseases.
  2. **Plastic Plant Material Prohibited.** Plastic and other non-organic plant materials shall be prohibited from use.
  3. **Required Plant Material Specifications.** The following specifications shall apply to all plant material required by this section:
    - a) *Deciduous Shade Trees* shall be species having a trunk that can be maintained with seven (7) feet or greater clear stem. Deciduous trees shall have a minimum caliper of three (3) to three and one-half (3 ½) inches at planting.
    - b) *Deciduous Ornamental Trees* shall have a minimum caliper of two (2) inches at planting, or six (6) feet in height in clump form.
    - c) *Evergreen Trees* shall have a minimum height of six (6) feet at planting.
    - d) *Deciduous and Upright Evergreen Shrubs* shall be a minimum of 30 inches in height at the time of planting.
    - e) *Spreading Evergreen Shrubs and Dwarf Species Shrubs* shall be a minimum of 24 inches in height or five (5) gallon container size at time of planting.
  4. **Diversity of Plant Species.** To ensure adequate variety and overall resistance to disease, no single plant species shall consist of more than 20% of any particular type of plant material provided on a site (e.g. deciduous canopy trees, evergreen trees, etc.). Notwithstanding, the Planning Commission may permit variations in this standard to accommodate specific designs, such as hedges.
  5. **Ground Cover.** Ground cover used in lieu of grass in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one (1) complete growing season.
- I. **Existing Plant Materials.** In instances where healthy plant materials exist on a site prior to its development, the Planning Commission may adjust the application of the above standards to allow credit for such plant material, if such an adjustment is in keeping with, and will preserve, the intent of this Ordinance.
- J. **Berms.** Berms and earth mounds shall be constructed with slopes no greater than one (1) foot vertical for each three (3) feet horizontal with at least a two (2) foot flat on the top and with adequate protection to prevent erosion.
- K. **Modification of Standards.** Innovation in design of landscaping is encouraged, and the Planning Commission may approve modifications of the above standards of Section 15.02 consistent with the purposes and intent of this Ordinance.

## Section 15.03 LIGHTING

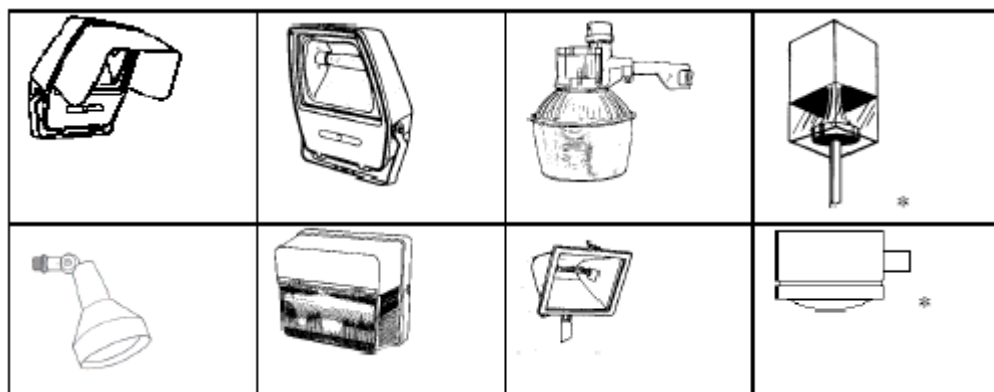
- A. **Purpose.** This Section is intended to:
1. Improve the safety and appearance of off-street parking areas, vehicular use areas, on-site walkways and grounds by assuring a consistent source of illumination for those areas.

2. Promote the public health, safety and welfare by preventing the adverse effects of inappropriate outdoor lighting, including glare, light trespass onto adjacent properties, light pollution and sky glow, and energy waste.
  3. Assist in the maintenance of high standards of site design and improve the ability of vehicles and pedestrians to move safely on sites during evening and night hours of operation.
- B. **Lighting Required.** All parking areas, walkways, driveways, building entryways, off-street parking and loading areas and improved grounds shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas. These requirements shall not apply to single family residential uses.
- C. **Time Period.** Required lighting shall be turned on daily from one-half hour after sunset to one-half hour after close of business. Lighting may be reduced during non-business hours. Non-essential lighting shall be turned off after business hours, leaving only that light which is essential for site security. The use of a motion detector or other automatic switching system for security lighting is encouraged.
- D. **General Standards.** All outdoor lighting shall comply with the following general standards:
1. Lighting fixtures shall be placed and shielded so as to direct light onto the site and away from adjoining properties.
  2. All exterior lighting (including wall-pack fixtures) shall be fully shielded and downward directed. No light that is emitted from the fixture shall project above a 90-degree horizontal plane running through the bottom of the lowest part of the fixture(see the following illustrations).

*Examples of fixtures that are fully shielded:*



*Examples of fixtures that are NOT fully shielded:*





*\* Note: Even though the lamp in these fixtures is shielded from direct view when viewed from the side or above, reflective surfaces within the fixture or the lens cover are directly visible from the side.*

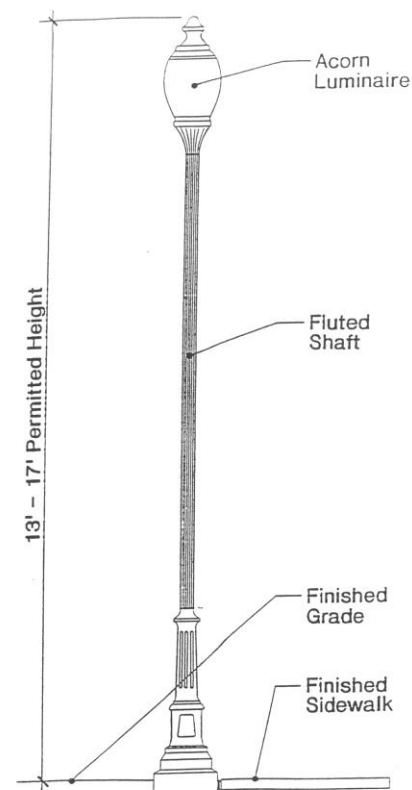
3. In order to prevent glare, no light-emitting surface within a light fixture (e.g. a bulb, lamp, refractor, etc.) shall be visible from any residential area, public or private roadway, walkway, trail, or other public way when viewed at ground level.
4. Lenses on light fixtures must be flat. "Sag" or protruding lens types are prohibited.
5. Any canopy structure used at a business or commercial location (such as a gas station pump canopy) must have recessed canopy fixtures with diffusers that do not extend below the ceiling surface of the canopy.
6. In parking areas, the light intensity shall average a maintained minimum of one (1) footcandle, measured at the surface of the parking lot. In pedestrian areas, the light intensity shall average a maintained minimum of two (2) footcandles, measured at the sidewalk surface.
7. The light intensity within a site shall not exceed ten (10) footcandles measured at ground level, with the exception that gas stations may have a maximum light intensity of 25 footcandles underneath pump canopies and in display areas, measured at ground level. Light intensity produced on site shall not exceed 0.5 foot candles at any lot line.
8. Light fixtures shall not exceed a height of 22 feet or the height of the building whichever is less. Height shall be measured from the ground immediately below the fixture to the top of the fixture. Fixtures should provide an overlapping pattern of light at a level seven (7) feet above ground level.
9. The Planning Commission may approve decorative light fixtures as an alternative to shielded fixtures if the applicant can demonstrate that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.
10. Light poles and luminaires located in the DC District and in any zoning district along the M-24 frontage shall comply with the standards of subsection 15.03.F.

E. **Planning Commission Modification of Standards.** The Planning Commission may modify the lighting standards based on consideration of the following elements:

1. The position and height of buildings and vegetation on the site or adjacent sites.
2. The potential off-site impact of the lighting.
3. The character of the proposed use.

F. **Specific Decorative Lighting Standards.** The installation of a consistent style of decorative lighting is required along major streets in the Village. In order to promote the public health, safety and welfare, the following specific standards shall apply to all pole lighting hereafter erected in the DC, CC, MU and PUD Districts and along M-24 (See illustration at right):

1. The pole shall be a colonial type and constructed of metal.
2. The height to the top of the structure shall not exceed 17 feet in height or be less than 13 feet in height above grade.
3. Luminaires attached to the poles shall be an acorn style, and be consistent in style to the illustration at the right.



4. Lighting shall be Village standard LED or a compatible alternative as approved by the Zoning Administrator.

**G. Prohibited Lighting.** The following lighting is prohibited in the Village:

1. Mercury vapor light fixtures.
2. Moving, flashing, or intermittent lighting.
3. Laser source light or other similar high-intensity light for outdoor advertising or entertainment.
4. The operation of searchlights for advertising purposes between the hours of 11 p.m. and sunrise the following morning.
5. Luminaires with swivel mounting hardware (see illustration at right).



## Section 15.04 WALLS AND FENCES

- A. Permit Required.** No person, firm or corporation shall construct, replace, reconstruct, or erect any fence or wall upon any land within the Village of Lake Orion without first having applied for and obtained a permit therefore from the Zoning Administrator.

1. The Zoning Administrator or his designee shall review the application, and if it complies with all provisions of the ordinances and codes of the Village of Lake Orion and does not violate any law of the State of Michigan, a permit shall be issued to the applicant.

1.2. Applications requesting a fence to be constructed, replaced, reconstructed, or erected on the perimeter or within three feet of the perimeter lot line must contain either of the following methods of property line verification:

- a) A certified staked boundary survey sealed by a registered land surveyor which completely describes the proposed construction as to height, type, material and location relative to property lines. The survey shall show the property line(s) along which the fence is proposed and all structures and encroachments, including driveways, within three (3) feet of the proposed fence location, OR
- b) A mortgage survey or other verifiable site plan which completely describes the proposed construction as to height, type, material and location relative to property lines. The survey shall show the property line(s) along which the fence is proposed and all structures and encroachments, including driveways, within three (3) feet of the proposed fence location. This survey shall be accompanied by notarized consent forms signed by any adjacent property owners along which a partition fence is being constructed or installed.

2.3. Applications requesting a fence to be constructed, replaced, reconstructed, or erected greater than three (3) feet from the perimeter lot line must contain a certified mortgage survey as a method of property line verification.

3.4. Permitted Locations. Fences may be constructed or erected along any perimeter lot line, including parallel to an existing fence. All fences must be located wholly within the boundary of the property owner's surveyed lot.

4.5. Location Verification. It is the homeowner's responsibility to determine the location of property lines and to verify that the fence being installed is within those property lines. The Zoning Administrator may require a staked survey if the fence location cannot be determined.

5.6. Disputes. The Village of Lake Orion does not intervene in property line disputes between adjacent homeowners or provide property line services and if necessary, the parties may need to determine

property lines through court action if necessary. Connecting, removing or replacing an existing fence or wall on a property line requires written authorization from the adjacent property owner.

**B. Single Family Residential Districts.** Fences and walls in single family residential districts are subject to the following requirements:

1. Non-Lakefront Lot

a) Fences and walls shall be permitted as follows:

- 1) Fences and walls six (6) feet or less in height above grade shall be permitted behind the house, no closer to the front lot line than the rear of the house. In the case of a house with a side door entrance, the fence may extend towards the front of the house sufficiently to enclose the side door entrance.
- 2) Fences and walls four (4) feet or less in height above grade shall be permitted from the rear or side door of the house, forward to the front lot line and may enclose the remainder of the lot.
- 3) Clear vision triangles shall be maintained, as required by Section 13.19. Any fence or wall located in the clear vision triangle shall be either non-obscuring or 30 inches or less in height above grade to provide for view at intersections and for vehicles exiting a driveway.

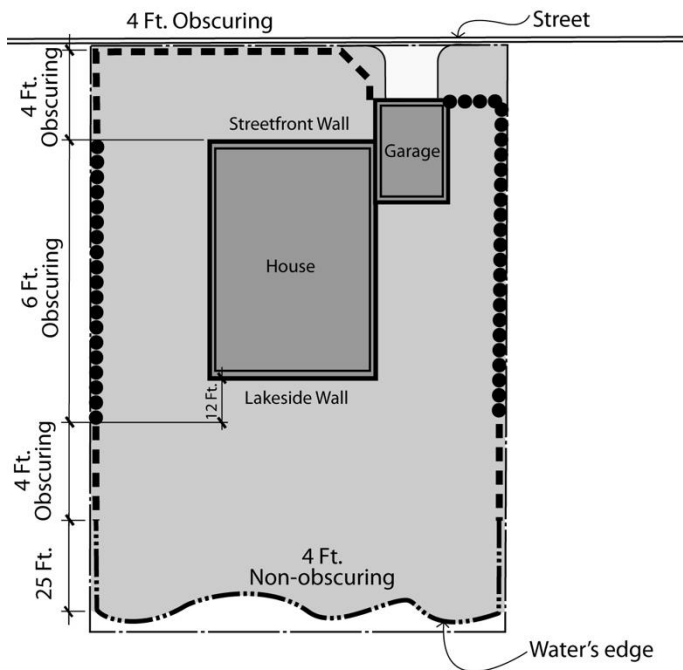
b) All fences and walls in front of the rear building line or side door of the house shall be decorative and non-obscuring in construction and design; however chain link fence shall not be permitted, as it is inconsistent with the traditional historic small town character of the Village.

2. Lakefront Lot

a) In the case of a lot that has lake frontage, fences or walls may be constructed to the water's edge, or to the lot line if the lot line is not in the water or at the water's edge.

b) Fences and walls shall be permitted as follows:

- 1) Fences and walls four (4) feet or less in height above grade shall be permitted along (parallel to and within 25 feet of) the waters edge. All such fences and walls shall be non-obscuring.
- 2) Fences and walls four (4) feet or less in height above grade shall be permitted at a distance of 25 feet or more from the waters edge to the street front lot line. All such fences may be obscuring or non-obscuring.
- 3) Fences and walls six (6) feet in height or less above grade shall be permitted from within 12 feet of the lakeside wall of the house, but no closer than 25 feet to the water's edge, to the street front building line of the house. The six (6) foot fence or wall may extend between the street front building line of the house or an attached accessory building to that side lot line which is closest to the house. Such fences and walls may be obscuring.
- 4) Clear vision triangles shall be maintained, as required by Section 13.19. Any fence or wall located in the clear vision triangle must be either non-obscuring or 30 inches or less in height above grade to provide for view at intersections and for vehicles exiting a driveway.



## Permitted Fence Locations Lakefront Lot

Table 15.04 RESIDENTIAL FENCES				
Non-Lakefront Lot	Fence Type & Max. Height			
Fence Location	Non-Obscuring 4 feet	Obscuring 4 feet	Non-Obscuring 6 feet	Obscuring 6 feet
1. Behind the rear of the house. If there is a side door entrance, fence may extend to enclose that door.	P	P	P	P
2. Forward of the rear of the house (or side door entrance, if applicable) to front lot line. May enclose the remainder of the lot.	P	NP	NP	NP
Lakefront Lot				
1. Within 25 feet of water's edge.	P	NP	NP	NP
2. Between 12 feet from lake side of house and 25 feet from water's edge.	P	P	NP	NP
3. Between 12 feet from lake side of house to the street front building line of house.	P	P	P	P
4. Between street front building line of house and street front lot line.	P	P	NP	NP

Notes to Table 15.04:

P = Permitted

NP = Not Permitted

- C. **Multiple Family Residential Districts.** Fences and walls in the RM Multiple Family Residential District shall not exceed six (6) feet in height above grade, and shall not be located in the front yard or in front of the front building line of the building(s).
- D. **Public and Institutional Uses.** Fences and walls that enclose public or institutional uses, such as schools and hospitals shall not exceed seven (7) feet in height above grade, and shall not obstruct vision to an extent greater than 25 percent of the total area of the fence's face. However, fences exceeding seven (7) feet in height may be permitted if required for public safety and security purposes for an essential service facility, or as may be otherwise required by this Ordinance.
- E. **Commercial and Other Nonresidential Uses.** Except as allowed under subsection D. above, fences and walls in the CC Corridor Commercial, DC Downtown Center, and MU Mixed Use Districts shall not exceed six (6) feet in height above grade. No fence or wall shall be located in the front yard or in front of the front building line of the building(s), except were provided as required screening, landscaping or buffering. Within 20 feet of any street lot line, any fence or wall shall step down to no greater than four (4) feet in height above grade.

- F. **Clear Vision.** No fence, wall or landscaping higher than 30 inches shall be erected or maintained that will obstruct the view of drivers in vehicles approaching an intersection of two roads or the intersection of a road and a driveway, or for a driver using a driveway. See Section 13.19, Clear Vision.
- G. **Swimming Pool Fences.** Fences for swimming pools shall comply with all applicable Village swimming pool regulations, other ordinances and the requirements of the State Construction Code. Swimming pool fences, including the gate, lock and fence, are subject to the approval of the Building Official.
- H. **General Provisions.**
1. Prohibited Features. Fences and walls shall not contain barbed wire, electric current or charge of electricity except when required for security purposes for a public facility or essential service.
  2. Appearance. All fences and walls shall present a finished appearance to view from off site. If, because of design or construction, one side of a fence or wall has a more finished appearance than the other, the side of the fence or wall with the more finished appearance shall face the exterior of the lot.
  3. Maintenance. All fences and walls shall be maintained in a condition of good repair, pursuant to the provisions of the Village Property Maintenance Ordinance.

# Article 16.

## General Exceptions

### Section 16.01 STATEMENT OF PURPOSE

Regulations of this Ordinance governing area, height, placement and use of land and buildings shall be subject to the exceptions contained in this Article.

### Section 16.02 PERMITTED HEIGHT

No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established in this Ordinance for the district in which the building is located, except that penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, individual domestic radio and television aerials and wireless masts, or similar structures may be erected above the height limits herein prescribed, provided that:

- A. No such structure may be erected to exceed by more than 15 feet the height limits of the district in which it is located.
- B. No such structure shall have a total area greater than 25 percent of the roof area of the building, except that a fire or parapet wall may enclose more than 25 percent of the roof area.
- C. No such structure shall be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building.
- D. The erection of radio and television transmitting, relay, or other types of antenna towers, where permitted, shall abide by the regulations set forth in Section 13.25.

### Section 16.03 YARD ENCROACHMENTS

Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other similar projections shall be considered as part of the building, subject to the setback requirements for the district in which the building is located. However, this provision shall not apply to one (1) chimney, not more than eight (8) feet in width projecting not more than 12 inches into the allowable side yard space, nor cornices, eaves, and gutters projecting less than 18 inches into the required side yard space or three (3) feet into the required front or rear yard space, nor to platforms, terraces, or steps below the first floor level.

### Section 16.04 ESSENTIAL SERVICES

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water distribution or transmission systems, transportation, collection, communication, supply or disposal systems including roads, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, and other similar

equipment and accessories in connection therewith, reasonably necessary for furnishing of adequate service by such public utilities or municipal departments or commissions, or for the public health or safety or general welfare shall be permitted as authorized and regulated by law and other ordinances of the Village of Lake Orion in any use district, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this Ordinance. However, buildings associated with the described services and facilities of such public utilities, municipal departments or commissions shall be subject to all requirements of this ordinance, including but not limited to site plan and special land use approval.

The Board of Zoning Appeals shall have the power to permit the erection and use of a building, or an addition to an existing building, of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure, or use, if the Board shall find such use, height, area, building or structure reasonably necessary for the public convenience and service, provided such building, structure, or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.



# Article 17.

## Nonconformities

### Section 17.01 INTENT

Nonconformities are uses, structures, buildings or lots that do not conform to one or more requirements of this Ordinance or a subsequent amendment, but were lawfully established prior to the time of adoption of the Ordinance or amendment. The purpose of this Article is to establish regulations that govern the completion, restoration, reconstruction, extension or substitution of nonconformities, and to specify those circumstances and conditions under which nonconformities shall be permitted to continue.

The following table summarizes the nonconforming regulations contained in this Article, however, the user is advised to refer to the text of this Article for a full explanation of each regulation.

#### SUMMARY OF NONCONFORMING REGULATIONS

Issue	Requirements
Period of nonuse before nonconformity must cease	Nonconforming use: 6 months Nonconforming structure: 12 months
Establishment of new conforming use	Nonconforming use must cease
Change in ownership	No effect on nonconformity
Nonconforming single family use	May be enlarged, subject to conditions
Substitution of one nonconformity for another	Permitted under certain conditions
Nonconforming contiguous lots under same ownership	Treated as one combined parcel
Expansion of nonconforming use within building	Permitted subject to conditions
Expansion of nonconforming use beyond existing building	Not permitted
Enlargement of nonconforming structure	Not permitted
Maintenance, structural repairs	Generally permitted
Renovation, modernization	Maximum value: 50% of true cash value
Rebuilding after catastrophe	Permitted if damage is less than 75% of true cash value

### Section 17.02 NONCONFORMING LOTS OF RECORD

The following regulations shall apply to any nonconforming lot of record.

- A. **Use of Nonconforming Lots.** Any nonconforming lot shall be used only for a use permitted in the zoning district in which it is located. In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record that existed as of the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area, width, or both, that are generally applicable in the district provided that the lot can be developed as proposed without lot coverage, setback, height or other dimensional variances.

- B. **Variance from Yard and Bulk Requirements.** If the use of a nonconforming lot requires a variance from the area, height, lot coverage, setback or dimensional requirements, such use shall be permitted only if the Board of Zoning Appeals grants a variance.
- C. **Nonconforming Contiguous Lots Under Same Ownership**
1. If two or more lots or combination of lots with contiguous frontage in single ownership are of record as of the effective date of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by an existing dwelling.
  2. The Planning Commission may, at its discretion, permit the combination, in whole or in part, of nonconforming lots of record into building sites less than the size and area requirements established in this Ordinance provided that the combination of lots reduces the degree of nonconformity. Any new lot created in this manner must be capable of accommodating a structure that is in conformance with the building area and setback requirements of this Ordinance.

## **Section 17.03 NONCONFORMING USE OF LAND, CONTINUATION OF USE**

- A. **Nonconforming Uses of Open Land.** A nonconforming use of land, where no building or structure is involved, which exists when this Ordinance becomes effective or amendments thereto, may be continued provided that:
1. No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property to occupy a greater area of land than was occupied at the effective date of adoption of this Ordinance or amendment hereto.
  2. No such nonconforming use of land shall be moved in whole or in part to any other portion of the lot occupied by such use.
  3. If such nonconforming use of land or any portion thereof is discontinued for a period of more than six (6) consecutive months or changed to a conforming use, any future use of such land shall be in conformity with the provisions of this Ordinance.
- B. **Nonconforming Uses of Structures or Structures and Land in Combination.** A nonconforming use of a structure or a structure and land in combination may be continued after the effective date of this Ordinance or amendments hereto, subject to the following provisions:
1. An existing structure devoted to a use not permitted by this Ordinance in the zoning district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered, except:
    - a) In changing the use of the structure to a use permitted in the district in which it is located, and
    - b) In accordance with the provisions of this Ordinance.
  2. Except as provided below, a nonconforming use may not be expanded or extended throughout other portions of the lot. If the nonconforming use or portion thereof is changed to a conforming use, any future use of the building, lot, or portion thereof shall be in conformity to the regulations of the district in which such building is located.

3. Any nonconforming use may be extended throughout any part of a building that was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside of the building.
  4. No nonconforming use of land shall be enlarged, increased, or extended to occupy a greater area of land, nor shall any such use be moved in whole or in part to any portion of that lot as it existed on the effective date of this Ordinance or amendment thereto.
  5. Any structure, or structure and land in combination in or on which a nonconforming use is replaced by a permitted use shall not thereafter be used to carry on the nonconforming use.
  6. A nonconforming use may be changed to another nonconforming use of greater restriction provided no structural changes are made to the building and provided that the Board of Zoning Appeals shall determine that the proposed new use is more appropriate to the particular neighborhood than the existing nonconforming use.
  7. No nonconforming building or structure shall be moved for any reason unless it shall then conform to the regulations for the zoning district in which it is located after being moved.
  8. When a nonconforming use of a structure, or structure and land in combination ceases, is discontinued for 12 consecutive months, the structure or structure and land in combination shall not thereafter be used except in conformance with the provisions of this Ordinance in the district in which it is located.
- C. **Seasonal Uses.** In applying this Subsection to seasonal uses, the time during the off-season shall not be counted as a cessation, abandonment or discontinuance of the nonconforming use.

## Section 17.04 NONCONFORMING STRUCTURES

- A. A. Continuation of Nonconforming Structures. Where a lawful structure exists at the effective date of adoption of this Ordinance or amendments hereto that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued as long as it remains otherwise lawful, provided that, unless otherwise noted in this Article, no such nonconforming structure may be enlarged or structurally altered unless such modifications conform to the provisions of this Ordinance for the district in which it is located.
- B. Enlargement, Extension or Alteration
1. Increase in Nonconformity Prohibited. Except as specifically provided in this Article, no person may engage in any activity that causes an increase in the extent of any nonconformity. For example, physical alteration of a structure or the placement of new structures on open land is unlawful if such activity results in:
    - a) An increase in the total amount of space devoted to a nonconforming use, or
    - b) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, density requirements, or other requirements in the district in which the property is located.
  2. Permitted Extension. A nonconforming structure may be extended if such extension does not increase the extent of the nonconformity. A nonconformity shall be considered increased if any of the following conditions exist:
    - a) The structure's horizontal encroachment into required setbacks is increased, either by reducing the setback of any part of the structure or by increasing the amount of the structure that encroaches,
    - b) The vertical (height) dimension of a bearing wall is increased at a nonconforming setback, even if the same horizontal nonconformity is maintained, or

- c) Comparable extensions, in the determination of the Zoning Administrator.
- 3. Alterations that Decrease Nonconformity. Any nonconforming structure or portion thereof may be altered if such alteration serves to decrease the nonconforming nature of the structure. If such alteration does not comply with the area or bulk requirements of this Ordinance, then such alteration shall be permitted only if a variance is granted by the Board of Zoning Appeals.

## Section 17.05 GENERAL REQUIREMENTS

- A. **Buildings Under Construction.** To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has begun preparatory to rebuilding, such work shall be deemed to be actual construction, provided that such work shall be diligently carried on until completion of the building involved.
- B. **Purchase or Condemnation.** The Village Council may acquire by purchase, condemnation or otherwise private property that does not conform in use or structure to the regulations and restrictions of the various districts defined in this Ordinance, and cause the removal of such use or structure.
- C. **Establishment of a Conforming Use or Structure.** In the event that a nonconforming principal use or structure is superseded by a conforming principal structure or use on a lot, the nonconforming use or structure shall be immediately and permanently removed.
- D. **Change in Tenancy or Ownership.** In the event there is a change in tenancy, ownership, or management, an existing nonconforming use or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.
- E. **Variances.** Any use for which a variance has been granted as provided in this Ordinance shall not be deemed a nonconformity.
- F. **Unlawful Uses, Structures, Buildings and Lots.** Uses, structures, buildings and lots that were unlawful or not lawfully established at the time of adoption of this Ordinance or an amendment are not nonconformities entitled to the protections under this Article. A person claiming a protected nonconformity may be required to provide proof of the date and lawful establishment of that nonconformity.
- G. **Change of Location.** Should a nonconforming structure be moved to another parcel or to another location on the same parcel for any reason whatsoever, it shall thereafter conform to all of the regulations for the district in which it is located after it is moved.
- H. **Damage and Reconstruction.**
  - 1. Where the destruction to a nonconforming structure containing or used for a nonconforming use has occurred and the cost to restore the structure is 75% percent or more of the structure and foundation's True Cash Value before the damage occurred, the nonconforming use contained in the structure must be removed. If the damage is less than 75% percent of the structure and foundation's True Cash Value before the damage occurred, then the structure containing the nonconforming use may be restored to contain the same nonconforming use as existed before such damage.
  - 2. Where such destruction to a nonconforming structure has occurred and the destruction is in excess of 75% percent or more of the structure and foundation's True Cash Value, the nonconforming structure must be removed.
  - 3. Damage estimates shall be submitted to the Village for determination of compliance with this Section. Such damage estimate shall include all materials and labor necessary to repair damage and restore the structure to a state that may be legally used and occupied, as determined by the Building Official.

Restoration shall be commenced within 120 days of the date of such partial destruction, subject to issuance of a building permit consistent with Village requirements, and shall be diligently carried on to completion.

**I. Repairs, Improvements, and Modernization**

1. Ordinary repairs or maintenance may be conducted to keep a nonconforming structure in good condition.
2. Structural alterations to a nonconforming structure may be performed provided that the cost of such improvements shall not exceed 50 percent of the True Cash Value of such structure and foundation during any period of 12 consecutive months.
3. For the purposes of this Article, ordinary repairs shall include activities necessary to keep the nonconforming structure and its components, including wiring and plumbing, in good working order and condition. Improvements and modernization means the full replacement value of any of the nonconforming structure's components, including full replacement of wiring and/or plumbing.
4. If a nonconforming structure becomes physically unsafe or unlawful by reason of its physical condition for any reason, and is declared to be unsafe or unlawful by the Building Official pursuant to the laws of the State or Village, it shall not thereafter be restored, repaired or rebuilt except in conformance with the terms of this Ordinance for the district in which it is located.

- J. Discontinuance as Abandonment.** The discontinuance of a nonconforming use for a period of time described in Section 17.03 creates a presumption of the owner's intent to abandon all rights to continue the nonconforming use that may only be rebutted by (i) a written notice of non-abandonment by the owner to the Zoning Administrator during the discontinuance time period described in Section 17.03 and, (ii) by maintenance of the lot, buildings, structures, utility connections and service, building fixtures, signage and other nonconforming use improvements in compliance with all applicable Village Ordinances and other applicable laws.

# Article 18.

## Administrative Organization

### Section 18.01 OVERVIEW

The Village Council or its duly authorized representatives as specified in this Article are hereby charged with the duty of administering and enforcing the provisions of this Ordinance. Accordingly, the administration of this Ordinance is vested in the following Village entities:

- A. Village Council
- B. Village Planning Commission
- C. Village Board of Zoning Appeals
- D. Village Zoning Administrator and Ordinance Enforcement Officials

The purpose of this Article is to summarize the responsibilities and scope of authority of the above entities.

### Section 18.02 VILLAGE COUNCIL

The Village Council shall have the following responsibilities and authorities pursuant to this Ordinance.

- A. **Adoption of Zoning Ordinance and Amendments.** In accordance with the intent and purposes of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, the Village Council shall have the authority to adopt this Ordinance, as well as amendments previously considered by the Planning Commission at a hearing, or as decreed by a court of competent jurisdiction.
- B. **Setting of Fees.** The Village Council shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Village Council to set a fee for a specific permit or application, the appropriate Village administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.
- C. **Appointment of Planning Commission and Board of Zoning Appeals Members.** The Village Council appoints members of the Planning Commission and Board of Zoning Appeals in accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended, Chapter 30 of the Code of Lake Orion, the Zoning Act and Section 18.04.

### Section 18.03 VILLAGE PLANNING COMMISSION

The Village Planning Commission shall have the following responsibilities and authorities pursuant to this Ordinance.

- A. **Formulation of Zoning Ordinance and Amendments.** The Planning Commission shall be responsible for formulation of the Zoning Ordinance, review of amendments to the Zoning Ordinance, holding hearings on a

proposed Zoning Ordinance or amendments, and reporting its findings and recommendations concerning the Zoning Ordinance or amendments to the Village Council.

- B. **Site Plan Approval.** Planning Commission review and approval is required for site plans, pursuant to Article 19.02 of this Ordinance.
- C. **Special Land Use Approval.** Planning Commission approval shall be required for all special land uses.
- D. **Formulation of a Basic Plan.** The Planning Commission shall be responsible for formulation and adoption or recommendation of a master plan (i.e., the Village of Lake Orion Master Plan) as a guide for the development of the Village, in accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended.
- E. **Review of Matters Referred by the Village Council.** The Planning Commission shall be responsible for review and recommendation concerning any other matters relating to land development referred to it by the Village Council.

## **Section 18.04 VILLAGE BOARD OF ZONING APPEALS**

The Village Board of Zoning Appeals (hereafter "BZA") shall have the following responsibilities and authorities pursuant to this Ordinance.

- A. **Organization.** The qualifications of members, the term of each member, filling of vacancies, compensation of members, and operation of the BZA shall be in accordance with Public Act 110 of 2006, as amended.
  - 1. Membership. The BZA shall consist of five (5) members appointed by the Village Council. Up to two (2) alternate members may be appointed by Village Council. One of the regular members of the BZA may be a member of the Planning Commission. The remaining members, and alternate members shall be selected from the electors of the Village of Lake Orion and shall reside in the Village. One (1) regular or alternate member of the BZA may be a member of the Village Council, but shall not serve as chairperson of the BZA. The terms of office for members appointed to the BZA shall be 3 years, except for members serving because of their membership on the Planning Commission or Village Council whose terms shall be limited to the time they are members of those bodies.
  - 2. Officers. The Chairman, Vice Chairman and Secretary of the BZA shall be elected annually by the members of the BZA.
  - 3. Meetings. Meetings of the BZA shall be held on a monthly basis as needed, at the call of the chairperson and at other times as the BZA may specify in its rules of procedure. The BZA shall keep minutes of its proceedings and shall keep records of its findings, proceedings at hearings and other official actions, all of which shall be immediately filed in the office of the Village Clerk and shall be a public record. All hearings and meetings of the BZA shall be public.
  - 4. The BZA shall not conduct business unless a majority of the BZA is present. An alternate member may be called to sit as a regular member of the BZA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest and shall serve in the case until a final decision is made. The alternate member shall have the same voting right as a regular member of the BZA.
  - 5. The Village Council shall designate the compensation paid to BZA members.
- B. **Jurisdiction.** The BZA shall have the authority outlined in Section 19.04.

## **Section 18.05 VILLAGE ADMINISTRATION AND ZONING ENFORCEMENT OFFICIALS**

- A. **Authority of the Zoning Administrator.** The Zoning Administrator or his designee is authorized to administer and enforce the provisions of this Ordinance.
- B. **Authority of the Building Official.** The Building Official, as designated by the Village Council or Zoning Administrator, enforces and administers the provisions of the Michigan State Construction Code.
- C. **Authority of the Ordinance Enforcement Officer.** The Zoning Administrator or his designee and any Ordinance Enforcement Officer that has been appointed or designated by the Village Council or Zoning Administrator, shall have the authority to:
  - 1. Review and investigate permit applications to determine compliance with the provisions of the Zoning Ordinance and issue warnings and tickets when provisions of this Ordinance or decisions, approvals, permits, certificates, requirements or conditions under this Ordinance and other applicable ordinances have not been complied with.
  - 2. Investigate alleged violations of this Ordinance and enforce appropriate corrective measures when required, including issuance of violation notices, issuance of stop work orders, and revocation or suspension of permits and certificates.
- D. **Authority of the Planning and Zoning Coordinator.** The Zoning Administrator or his designee and any Planning and Zoning Coordinator, as designated by the Zoning Administrator, shall:
  - 1. Review applications and plans for buildings, structures, and premises to insure proposed land uses or improvements are, or will remain in compliance with this Ordinance.
  - 2. Provide citizens and public officials with information relative to this Ordinance and related matters.
  - 3. Assist applicants in determining and completing appropriate forms and procedures related to site plan review, rezoning, and other zoning matters.
  - 4. Perform inspections as required, at the direction of the Zoning Administrator.
  - 5. Perform any other related duties required to administer this Ordinance, at the direction of the Zoning Administrator.
- E. **Limitations.**
  - 1. The Zoning Administrator or any other administrative or enforcement official are not, under any circumstances, permitted to grant exceptions to the actual meaning of any clause, order or regulation, contained in this Ordinance to any person making application to construct, move, alter or use any buildings, structures or land within the Village.
  - 2. The Zoning Administrator or any other administrative or enforcement official are under no circumstances, permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties as Zoning Administrator.



# Article 19.

## Administrative Procedures and Standards

### Section 19.01 STATEMENT OF PURPOSE

The purpose of this Article is to provide procedures and related standards for the processing of all requests for Village action or review under the provisions of this Ordinance.

### Section 19.02 SITE PLAN REVIEW

A. **Purpose.** The purpose of site plan review is to determine compliance with the provisions set forth herein, and to 1.) promote orderly development and redevelopment of the Village, the stability of land values and investments, and the general welfare, and 2.) prevent the impairment or depreciation of property values and development that may result from the erection of structures or additions or alterations thereto without proper attention to siting, function, and appearance.

B. **Site Plan Review Required.**

1. New Development and Uses. Prior to the erection of any building or structure, a change of use, construction of parking facilities, or the creation or addition of a new use in any zoning district, or any land use requiring special land use approval, site plan review and approval shall be required.

Notwithstanding the foregoing, single family detached dwellings and permitted accessory buildings, structures, and uses incidental thereto shall not require site plan review or approval by the Planning Commission. However, permanent boat hoists and boat houses accessory to single family residential uses shall require site plan review and approval by the Planning Commission.

Site plan review and approval by the Planning Commission shall not be required for the following:

- a) In the DC, Downtown Center District, for a change of use to a use permitted by right in an existing building or for the creation or addition of a new use within an existing building, if all of the provisions of Section 19.02.B.3 of this Ordinance are met.
  - b) In the CC, Corridor Commercial and the MU, Mixed Use districts for a change of use to a use permitted by right in an existing shopping center or nonresidential multi-tenant building, or for the creation or addition of a new use within an existing shopping center or nonresidential multi-tenant building, if all of the provisions of Section 19.02.B.4 of this Ordinance are met.
2. Additions and Alterations. Site plans for structural alterations or additions to buildings need not be submitted to the Planning Commission for review when all of the following conditions are met:
    - a) The proposed addition or structural alterations do not exceed 50% of the existing structure(s) or use and do not exceed 1,000 square feet in area.
    - b) The addition or the structural alteration is in substantial conformity with any plan previously approved by the Planning Commission. If there has been a material change in circumstances or

change in a Village ordinance which impacts the proposal, the site plan shall be submitted to the Planning Commission for review.

- c) The proposed addition or structural alteration is approved by the Zoning Administrator, Village Engineer, Planning Consultant, Fire Chief and the Building Official. Each shall review and approve by signature directly upon the site plan supported by a separate letter.

If conditions are made by any reviewer, they shall be noted as conditions of approval. Approval shall not be granted under this provision if there is a question as to whether the site plan meets the requirements of the Zoning Ordinance or other Village ordinances.

If a review and approval member finds that the proposed use or structure may adversely affect the neighborhood or adjoining properties, the application shall be scheduled for site plan review by the Planning Commission. The reason for such Planning Commission site plan review shall be indicated in written comments from one or more of the review and approval members.

- 3. Change of Use Within An Existing Building in the DC, Downtown Center District. In order to encourage new businesses to move into existing buildings in the Village's downtown core, and in recognition of the unique characteristics of the DC District, including its established building stock, limited space for expansion, pedestrian orientation, historic character, and shared public parking facilities, site plan review and approval by the Planning Commission shall not be required when all of the following conditions are met:

- a) The proposal is for an existing building in the DC, Downtown Center District and involves only a change in use, the creation of a new use, or the addition of a new use. There shall be no exterior structural alterations included in the proposal.
- b) The proposed change in use is to a use permitted without special land use approval in the DC district.
- c) The proposed change in use or new use is approved by the Zoning Administrator, and Building Official, as required. Application shall be made on a form that includes details regarding the use, a floor plan, and other information as determined by the Zoning Administrator. At the discretion of the Zoning Administrator, the application shall be reviewed by the Village engineering and planning consultants, Fire Chief and others as necessary. Each shall review and approve by signature directly on the application supported by a separate letter.

If conditions are made by any reviewer, they shall be noted as conditions of approval. Approval shall not be granted if there is a question as to whether the proposed change in use would be in conformance with the Zoning Ordinance or with other Village ordinances.

If any reviewer finds that the proposed use may adversely affect the neighborhood or adjoining properties, the application shall be scheduled for site plan review by the Planning Commission. The reason for such Planning Commission site plan review shall be indicated in written comments from one or more of the review and approval members.

- 4. Change of Use Within An Existing Shopping Center or Nonresidential Multi-tenant Building in the CC or MU Districts. Site plan review and approval by the Planning Commission shall not be required when all of the following conditions are met:

- a) The proposal is for an existing shopping center or nonresidential multi-tenant building and involves only a change in use, the creation of a new use, or the addition of a new use. There shall be no exterior structural alterations included in the proposal.
- b) The proposed change in use or new use is to a use permitted without special land use approval in the district.
- c) The proposed change in use or new use will not create a parking deficiency based on the requirements of the Ordinance.

- d) The proposed change in use or new use is approved by the Zoning Administrator, and Building Official, as required. Application shall be made on a form that includes details regarding the use, a floor plan, and other information as determined by the Zoning Administrator. At the discretion of the Zoning Administrator, the application shall be reviewed by the Village engineering and planning consultants, Fire Chief and others as necessary. Each shall review and approve by signature directly on the application supported by separate letter.

If conditions are made by any reviewer, they shall be noted as conditions of approval. Approval shall not be granted if there is a question as to whether the proposed change in use would be in conformance with the Zoning Ordinance or with other Village ordinances.

If any reviewer finds that the proposed use may adversely affect the neighborhood or adjoining properties, including but not limited to increased parking requirements, the application shall be scheduled for site plan review by the Planning Commission. The reason for such Planning Commission site plan review shall be indicated in written comments from one or more of the reviewers.

5. Reporting Required. In the event that a change in use, or an addition or structural alteration is approved using the procedures noted above in paragraphs 2, 3, or 4, copies or a summary of the plans approved shall be submitted to the Planning Commission at their next meeting by the Zoning Administrator.

#### C. **Procedure for Approval.**

1. Pre-Application/Concept Plan Meeting. At the option of the applicant and subject to payment of applicable fees, an informal meeting may be held with the Zoning Administrator, consultants and other Village staff for the review of a concept plan. This pre-application conference allows the applicant to discuss the proposed development and get information regarding the applicable standards of the Ordinance, technical issues, compliance, and procedures.
2. The site plan, including all items required, together with site plan review fees as established by the Village Council, shall be submitted to the Village Clerk. The number of copies required shall be as determined from time to time by the Village. Additional copies of the site plan may be required to facilitate review. The Village may prepare forms and require the use of such forms in site plan preparation.
3. The Planning Commission shall review all site plan submissions to ensure compliance with the provisions and requirements of this Article and Ordinance.
4. Site Plan Approval. Site plan approval shall confer approval of the proposed site layout, landscape areas, building elevations, and other aspects, excluding detailed engineering and technical requirements. Site plan approval may also include additional conditions necessary for granting final approval.
  - a) *Technical Review.* Prior to Planning Commission consideration, the site plan and application shall be distributed to appropriate Village officials, consultants, and employees for review and comment.
  - b) *Planning Commission Consideration of the Site Plan.* The Planning Commission shall review the application for site plan approval, together with any reports and recommendations and any public comments. The Planning Commission shall then make a determination for approval, disapproval, or approval with conditions based on the requirements of this Ordinance. If the Planning Commission finds that a site plan is not in conformance with the provisions set forth in Village ordinances and regulations, it may, at its discretion, return the site plan to the applicant with a written statement of the modifications necessary to obtain approval. The written statement may be contained in the meeting minutes.
5. Action on Site Plan. The Planning Commission is authorized to postpone action on the site plan, or approve, approve subject to conditions or deny the site plan as follows:

- a) *Postponement.* Upon determination by the Planning Commission that a site plan is not sufficiently complete for approval or denial, or upon a request by the applicant, the Planning Commission may postpone consideration until a later meeting.
  - b) *Denial.* Upon determination that a site plan does not comply with the standards and regulations set forth in this Ordinance for preliminary approval, or would require extensive revisions to comply with those standards and regulations, the site plan shall be denied. If a site plan is denied, the meeting minutes shall list the reasons for the denial. The site plan may be denied by the Planning Commission upon failure of the applicant, or the applicant's designated representative, to attend two or more meetings when the item is on the agenda.
  - c) *Approval.* Upon determination that a site plan is in compliance with the requirements of this Ordinance and other applicable Village codes and ordinances, the site plan shall be approved.
  - d) *Approval Subject to Conditions.* The Planning Commission may approve a site plan subject to one or more conditions necessary to address minor modifications to the site plan, ensure that public services and facilities can accommodate the proposed use, protect significant natural features, ensure compatibility with adjacent land uses, or otherwise meet the intent and purpose of this Ordinance. Such conditions may include the need to obtain variances or other approvals.
  - e) *Recording of Site Plan Action.* Planning Commission action on the site plan shall be recorded in the Commission meeting minutes, including any conditions or grounds for the Commission's action.
  - f) *Final Approval.* Following Planning Commission approval, all site plans shall be subject to final approval by the Zoning Administrator, Village planning and engineering consultants, Fire Chief, and all agencies with jurisdiction.
6. Final Plan Approval. Following Planning Commission approval, all site plans shall require final plan review and approval. Final plan approval shall be granted when all of the requirements of this Article and Ordinance are met, and all conditions of Planning Commission approval have been addressed. The applicant shall submit all documentation required under Section 19.01.D.2. to the Village for review. The Zoning Administrator shall forward all pertinent final plans, drawings and written approvals and recommendations from any authorities having jurisdiction (Oakland County Drain Office, Michigan Department of Environmental Quality, Michigan Department of Transportation, etc.) to the Village's planning and engineering consultants, the Fire Chief, and others as appropriate, for review and approval. Prior to granting final plan approval, the Zoning Administrator shall:
- a) Ensure that all conditions of the site plan approval have been met.
  - b) Receive recommendation for approval from the Village Engineer for the proposed water, storm and sanitary system and proposed grading and paving for the project, as applicable.
  - c) Receive recommendation for approval from the Fire Chief for the proposed fire protection systems and compliance with applicable fire prevention ordinances, as applicable.
  - d) Receive recommendation from the Village Planning consultant for the landscaping, signage and that all site planning aspects comply with the requirements of this Ordinance and the conditions of the Planning Commission's site plan approval.
  - e) Verify that the planning and construction of streets, roads and alleys, structures, drainage, curbs, gutters, fences, screening walls, landscaping, walks and other site improvements comply with the requirements and specifications of this Ordinance and any engineering design standards adopted by the Village Council.
  - f) Verify that the use and site design shown on the final plan are consistent with the approved site plan, except for changes that address any conditions of approval or do not materially alter the approved site design.

- g) Verify that all applicable Ordinance requirements that apply to the site or proposed use have been satisfied, and all necessary Village and all necessary outside agency permits or approvals have been obtained by the applicant.
7. Action on Final Plan. The Zoning Administrator is authorized to require that the final plan be returned to the Planning Commission for reconsideration, or approve, approve subject to conditions or deny the final plan as follows:
- a) *Planning Commission Reconsideration.* Upon his determination that a site plan is not sufficiently complete, or includes major changes affecting the overall functioning of the site, impacts on the surroundings, or other substantial changes, or upon a request by the applicant, the Zoning Administrator may require that the site plan be returned to the Planning Commission for reconsideration.
  - b) *Denial.* Upon determination that a final plan does not comply with the standards and regulations set forth in this Ordinance for final approval, or would require extensive revisions to comply with those standards and regulations, the final plan shall be denied.
  - c) *Approval.* Upon determination that a site plan is in compliance with the requirements of this Ordinance and other applicable Village codes and ordinances, the site plan shall be approved.
  - d) *Approval Subject to Conditions.* The Zoning Administrator may approve a final plan subject to one or more conditions necessary to address:
    - 1) minor modifications to the site plan,
    - 2) ensure that public services and facilities can accommodate the proposed use,
    - 3) protect significant natural features,
    - 4) ensure compatibility with adjacent land uses,
    - 5) or otherwise meet the intent and purpose of this Ordinance.
  - e) *Recording of Final Plan Approval.* Final plan approval shall be recorded on the official copy(s) of the final site plan, including any conditions clearly noted.
8. Within 12 months after the date of final plan approval, building permits must be obtained encompassing a minimum of 25 percent of the gross floor area and site improvements shown on the site plan or the site plan shall be deemed null and void without any further action by the Village. The Planning Commission may, upon application in writing stating the reasons therefore, extend the 12 month period for one (1) additional period of up to 12 months.

#### **D. Required Information.**

- 1. Site Plan. All applications for site plan approval shall contain the following items:
  - a) The date, revision date, north arrow and scale. The scale shall be not less than one (1) inch equals 20 feet for sites less than three (3) acres in area and at least one (1) inch equals 50 feet for those sites of three (3) acres or more. The plan sheet size shall be 24 inches by 36 inches in size.
  - b) The name, firm address, and professional seal of the individual responsible for the preparation of the site plan. The site plan shall be sealed by one of the following professionals registered in the State of Michigan: Registered Architect, Registered Land Surveyor, Registered Civil Engineer, Registered Landscape Architect, or Registered Professional Community Planner. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to existing structures may be prepared by the builder or contractor licensed in the State of Michigan.
  - c) The name and address of the property owner or petitioner, and proof of ownership or option to purchase. Proof of ownership or option to purchase shall be included with the application.
  - d) A general location map.

- e) Legal and common or popular description of the site, and the proposed site address, if available.
- f) Site area in square feet and acres, gross and net.
- g) The existing zoning of the site and all lots abutting it.
- h) All lot and/or property lines and setback lines shown and dimensioned, including building setback lines on corner lots, and front, side and rear setback dimensions.
- i) The location and height of all existing structures and improvements on and within 50 feet of the site, and all proposed improvements to the site, to scale.
- j) Proposed and existing building width, length, and distance between buildings dimensioned.
- k) The location, dimensions and hard surface type of all existing and proposed drives, sidewalks, walkways, paths, curb openings, curbing, wheel stops, parking areas including total number of parking spaces (with dimensions of a typical parking space and barrier free space), loading/unloading spaces and areas, and fire lanes.
- l) The location, pavement width and existing and planned right-of-way width of all abutting roads, streets, alleys or easements.
- m) Acceleration, deceleration and bypass lanes and cross-access easements located and dimensioned.
- n) General landscape plan, indicating the type, location, density, and intended function of existing and proposed landscape materials including groundcover, trees, shrubs, ornamentals and other landscape plantings and features.
- o) Location, height and type of existing and proposed fences and walls, screening and greenbelts.
- p) Location, height, materials and cross sections of any screening walls, fences or berms.
- q) Location and dimensions of any recreation areas, common use areas, and areas to be conveyed for public use and purpose.
- r) Trash receptacle and transformer pad location and method of screening.
- s) Location of existing and proposed service facilities, including septic systems, drain fields and other wastewater treatment systems; well site if any; water mains, hydrants, pump houses and building services and sizes; sanitary sewers and pumping stations; storm water management facilities and structures including storm sewers, swales, retention and detention basins, drainage ways and other facilities, including preliminary calculations for detention/retention facilities; location of easements.
- t) Topography showing existing grade at no more than two (2) foot intervals on the site and 50 feet beyond the site boundaries. If there are major topographic features/elevation changes in the vicinity of the site, the Planning Commission may require that topographic contours be shown on the plan, extending up to 100 feet beyond the site boundaries. Areas of cut and fill and proposed grade changes must be identified along with a statement of how those changes will be addressed.
- u) Floodplain and flood hazard elevations. If there are none on the site, then a statement included on the plan that there are none. Streams or other bodies of water or other unbuildable areas, if present on the site.
- v) Provide construction phasing plan, if applicable.
- w) Front, side and rear building elevations for each building proposed. All façade materials and colors labeled on the elevations.
- x) Dimensioned floor plans for each building, and total and usable floor area by type of use.
- y) The number of residents and/or employees during peak usage.

- z) A narrative description of the proposed project and use.
  - aa) Height of all outdoor light fixtures, cut sheets, method of shielding, and illustration of pole(s) and fixture(s), and a statement that the site will comply with all lighting requirements.
  - bb) Sign location and type of sign. The plan shall note that all signs will conform to the Village Sign Ordinance and that the required sign permits will be obtained.
  - cc) In the case of residential uses (i.e. multiple family, residential component of a PUD, or single family cluster development) the following additional information and data is required:
    - 1) The proposed number of dwelling units by type (apartment, condominiums, cooperative, etc.) and the number, size and location (by code if necessary) of one-bedroom units, two-bedroom units, etc. The total number of bedrooms shall be listed.
    - 2) The proposed density and the residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas (excluding all existing rights-of-way) and gross and net acreage areas and calculations.
    - 3) Location, elevations, and details of community buildings and facilities, carports, swimming pools and similar facilities.
  - dd) The Planning Commission may also require the submission of special data that it deems critical to the adequate review of the proposed use and its impacts on the site or Village. Such data requirements may include traffic studies, cross section views, market analysis, environmental assessments (including impact data on flora, fauna, natural resources, hazardous materials, erosion control and pollution), demands on public facilities and services and estimates of potential costs to the Village due to failures and as a basis for performance guarantees.
2. Final Plan. All applications for final plan approval shall contain the following items:
- a) All information required for site plan approval.
  - b) Storm drainage and retention computations must be shown and must meet current Village stormwater management requirements.
  - c) Display profiles of the storm sewer, including pipe size, slope, type, length, and ground rim elevations.
  - d) Size and location of existing and proposed hydrants, manholes, and utilities, including proposed connections to public sewer and water supply system. If the project involves water main extension and it connects to an existing main under eight (8) inches in diameter, the applicant must submit flow information from the existing hydrant closest to the project. This shall consist of the static pressure and the maximum flow available with 20 pounds per square inch (psi) of residual pressure. This test must be coordinated with the Fire Department and the Department of Public Works and this information will be used to help assess any system improvements that are required as part of the proposed project. In addition, testing may be required in cases where the water main is eight (8) inches or more at the discretion of the Village Engineer and Fire Chief.
  - e) Soil erosion and sedimentation control plan, subject to requirements of the Soil Erosion and Sedimentation Control Act, PA 347 of 1972, as amended.
  - f) Grading plan
  - g) Indicate the status and location of any known environmental contamination.
  - h) A complete landscape plan, including the location of all existing and proposed landscaping and vegetation (by type and size); location, size and type of any trees larger than three (3) inches in caliper proposed to be removed; plant list with the number, size at planting, and name of all proposed plant material; maintenance plan; type of ground cover noted and all grass to be specified as to whether it will be seeded or sodded; and notation that any dead or diseased plant

material will be replaced within one (1) year or in the next appropriate planting season. The final landscape plan shall be prepared by and bear the seal of a Registered Landscape Architect.

- i) A photometric plan including the proposed location of all outdoor light fixtures, a photometric grid overlaid upon the site plan showing the proposed light intensities on the site measured at grade level, a schedule of light fixtures including the manufacturer and model number of all fixtures, the maximum, average, and minimum illumination levels proposed in applicable areas on the site, and a statement of the proposed hours when the luminaires will be on and when they will be turned off. The plans must note if photocells, time clocks, motion detectors, or other automatic switching systems are proposed.
- j) Complete text and description of purpose of all existing and proposed easements.

E. **Site Plan Review Standards.** The following criteria shall be used as a basis upon which site plans will be reviewed and approved. The Planning Commission shall adhere to sound land use planning principles, yet may allow design flexibility in the administration of the following standards:

1. All elements of the site shall be harmoniously and efficiently designed in relation to the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site will be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted on such property.
2. The site plan shall comply with the district requirements for minimum floor area, height of building, lot size, yard space, density and all other requirements as set forth in the Schedule of Regulations unless otherwise provided in this Ordinance.
3. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
4. There shall be reasonable visual and sound privacy. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users.
5. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
6. Where possible and practical, drainage design shall recognize existing natural drainage patterns.
7. There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system.
8. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. Streets and drives that are a part of an existing or planned street system serving adjacent developments shall be of an appropriate width to the volume of traffic they are planned to carry and shall have a dedicated right-of-way equal to that specified in a recognized source of reference.
9. Appropriate measures shall be taken to ensure that the removal of stormwater will not adversely affect adjoining properties or the capacity of the public storm drainage system and shall comply with State and Federal standards. Provisions shall be made for the construction of stormwater facilities, and the prevention of erosion and dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicles or pedestrian traffic and will not create nuisance ponding in paved areas.
10. Off-street parking, loading and unloading areas and outside refuse storage areas, or other storage areas that face or are visible from adjacent homes, or from public thoroughfares, shall be screened by walls, fencing or landscaping of effective height.



11. Exterior lighting shall be so arranged so that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
12. Adequate services and utilities and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development. All utilities shall be located underground unless modified by the Planning Commission based on persuasive evidence provided by the applicant indicating it is not feasible to locate utilities underground.
13. Any use permitted in any zoning district must also comply with all applicable Federal, State, County and Village health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electro-magnetic radiation and drifting and airborne matter, toxic and hazardous materials, stormwater, erosion control, floodplains, and requirements of the applicable fire codes.
14. Where the Planning Commission determines, after expert consultation, that public safety would be substantially promoted in a particular location by reducing the number of points of ingress and egress between private property and an adjoining highway, cross-access may be required. Shared drive approaches between adjoining parcels may also be permitted under this Section. Unless the property owner demonstrates that an alternative design would be in the public interest, as determined by the Planning Commission, the requirement for cross-access drives shall be in accordance with the following:
  - a) *Standards for Cross Access Drives.* The cross-access drive(s) shall be set back at least ten (10) feet from, and parallel to the public or private street or highway planned right-of-way as specified in the Village Master Plan. The cross-access drive(s) shall be at least 24 feet in width except in the situation where existing adjacent parking lots are to be connected by way of a common maneuvering lane and a greater width cannot be provided, then such cross-access drive(s) shall be at least 22 feet in width.
  - b) The cross-access drive(s) shall be an easement which will permit the use of the drive for traffic circulation to provide ingress and egress to the two or more properties identified by the Planning Commission.
  - c) The easement creating the cross-access drive(s) shall be in recordable form approved by the Village Attorney and shall run with the land and benefit/burden the heirs, assigns and transferees of the properties to be served by the drives. In addition, the easement shall specify the means and program by which the drives shall be maintained, including a specification of responsible parties for snow plowing, repair, and other maintenance practices. The applicant shall have the easement(s) recorded with the Oakland County Register of Deeds office and shall submit a copy to the Village.
  - d) The entire width of the cross-access drive(s) shall be paved to specifications, as approved by the Village Engineer, taking into consideration the number of users, the location, traffic safety considerations, and other generally applicable civil and traffic engineering considerations.
  - e) Traffic direction signs shall be established on the drives in the manner proposed by the property owner and approved by the Planning Commission. Prior to completion of its review with regard to such signage, the Planning Commission shall receive the recommendation of the Chief of Police.
  - f) A final certificate of zoning compliance for the site responsible for constructing the cross-access drive(s) shall not be issued unless and until such drive(s) have been completed, or a performance guarantee has been posted with the Village in an amount sufficient to complete the cross-access drive(s) in accordance with Section 13.18.
  - g) In the event that there is no existing adjacent parking lot, but one can reasonably be expected to be constructed on an adjacent parcel in the future, the Planning Commission may permit the postponement of construction of a cross access drive. In this case, blanket cross access easements across the entire parking lot area shall be provided for connected lots under separate ownership or management in the future.

- F. **Record.** The final site plan, as approved, shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved final site plan unless a change or addition conforming to this Section receives the mutual agreement of the landowner and the Planning Commission or the Zoning Administrator for site plans that did not require Planning Commission approval, or that involve incidental and minor variations from the approved final site plan as determined, documented and approved in writing by the Zoning Administrator.

## **Section 19.03 SPECIAL LAND USE REVIEW**

- A. **Intent and Subject to Conditions.** It is the intent of this Article to establish and provide procedures and standards for uses identified herein as Special Land Uses permitted in particular zoning districts subject to the special land use approval of the Planning Commission. All uses which are permitted with special land use approval shall be subject, unless otherwise required by the Planning Commission, to all of the general and specific conditions and standards regarding each development.
- B. **Notice.** Upon receipt of an application for a special land use approval together with fees as established by the Village Council, notice shall be provided as required by Public Act 110 of 2006, as amended.
1. Notice shall be sent not less than 15 days before the date that the application will be considered. Notices shall be sent to:
    - a) The applicant
    - b) The owner of the property, if not the applicant
    - c) All persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures, regardless of whether the owner and property is located in the Village.
    - d) The general public by publication in a newspaper of general circulation in the Village.
  2. The notice shall include:
    - a) The nature of the special use being requested.
    - b) The property for which the request has been made.
    - c) A listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
    - d) The location where the application documents can be viewed prior to the date the application will be considered.
    - e) The date, time and location of when the hearing on the application will take place.
    - f) The address to which written comments should be directed and the deadline prior to the public hearing for submission.
- C. **Public Hearing.** Following receipt of an application for special land use approval, the Planning Commission shall hold a public hearing at a date and time set to consider the requested special land use.
- D. **Review By Planning Commission.** The Planning Commission shall deny, approve, or approve with conditions, requests for special land use approval. 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 findings and conclusions shall specify the basis for the decision and any conditions imposed.
- E. **Site Plan Review and Information Required.** For all special land uses, a site plan shall be required and submitted in accordance with Section 19.02 of this Ordinance. Approval shall run with the land and shall not be issued for specified periods, unless the use is temporary or time related in nature.

- F. **Performance Guarantees.** Performance guarantees may be required by the Village to insure compliance with special land use approval conditions, in accordance with Section 13.23.
- G. **Standards.** In addition to specific standards that may be applicable, the following standards shall serve the Planning Commission as the basis for decisions involving special land uses and other discretionary decisions contained in this ordinance. Each proposed use or activity shall be evaluated for:
1. Protection of the Public Health, Safety, and General Welfare. The establishment or maintenance of the special approval use shall not be detrimental to the public health, safety, or general welfare.
  2. Compatibility With Surrounding Uses. The special land use shall be located, designed, maintained and operated to be compatible with the existing or intended character of the zoning district in which it is located and with adjacent districts. In determining whether this requirement has been met, consideration shall be given to:
    - a) The location and screening of vehicular circulation and parking areas in relation to surrounding development.
    - b) The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
    - c) The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
    - d) The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses. Any proposed building shall be compatible with the predominant type of building in the particular district in terms of size, character, location, or proposed use.
    - e) Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this Ordinance may be required as a condition of approval of a special land use.
  3. Detrimental Effects. The proposed special land use shall not involve any activities, processes, materials, equipment or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to persons or property or the public health, safety and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light generated by the proposed use.
  4. Impact on Traffic. The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:
    - a) Proximity and access to major thoroughfares and other public streets.
    - b) Estimated traffic generated by the proposed use.
    - c) Proximity and relation to intersections.
    - d) Adequacy of driver sight distances.
    - e) Location of and access to off-street parking.
    - f) Required vehicular turning movements.
    - g) Provisions for pedestrian traffic.
  5. Adequacy of Public Services. The proposed special land use shall be located so as to be adequately served by essential public services and facilities such as highways, streets, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the special approval use is established.

6. **Protection of Site Characteristics.** The special land use shall preserve and incorporate the site's important architectural, natural, and scenic features in the development design.
7. **Compatibility with the Natural Environment.** The proposed special land use shall be compatible with the natural environment and conserve natural resources and energy, and cause minimal adverse environmental impacts.
8. **Compatibility with the Master Plan and Intent of the Zoning Ordinance.** The proposed special land use shall be consistent with the general principles and objectives of the Village's Master Plan and shall promote the intent and purpose of this Ordinance and the use district in which the proposed use is located.

## **Section 19.04 VARIANCES and APPEALS**

- A. **General Authority.** The Board of Zoning Appeals shall have the authority to act on those matters where this Ordinance provides for appeal of an administrative order or interpretation and shall have the authority to authorize a variance as defined in this Ordinance and the laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section 19.04. The Board of Zoning Appeals shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

The Board of Zoning Appeals shall have the authority to hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made in the administration or enforcement of this Ordinance, and to hear and decide appeals where there are practical difficulties (in the case of a requested dimensional variance) or unnecessary hardship (in the case of a requested use variance) in the way of carrying out the strict letter of this Ordinance so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony, and the production of books, papers, files and other evidence pertinent to the matters before it.

- B. **Appeals and Review.** An appeal may be taken to the Board by any person, firm or corporation, or by any officer, department, board, or bureau aggrieved by a decision of the Zoning Administrator. Such appeals shall be taken within such reasonable time as shall be prescribed by the Board of Zoning Appeals by general rule, by filing with the Zoning Administrator and with the Board, a motion of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, other than by a restraining order which may be granted by a court of record.

The Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

- C. **Interpretation.** The Board of Zoning Appeals shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the Zoning Map. The Board of Zoning Appeals shall make such decisions so that the spirit and intent of this Ordinance shall be observed.

Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance.

Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the Board of Zoning Appeals shall

consider reasonable and/or practical interpretations that have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the Board of Zoning Appeals may confer with Village staff and consultants to determine the basic purpose of the provision subject to interpretation and any consequences that may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment to the Ordinance.

- D. **VariANCES.** The Board of Zoning Appeals shall have the authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, the public health safety and general welfare secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e. height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise not permitted in a zoning district.
1. **Dimensional or Non-Use Variance Review Standards.** The Board of Zoning Appeals may grant a dimensional or non-use variance upon a finding that practical difficulties exist. A finding of practical difficulties is when the applicant has demonstrated all of the following:
    - a) Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
    - b) The variance will provide substantial justice to the applicant, as well as other property owners.
    - c) The variance requested is the minimum variance needed to provide substantial relief to the applicant and/or be consistent with justice to other property owners.
    - d) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
    - e) The problem and resulting need for the variance has been created by strict compliance with the Zoning Ordinance, and not by the applicant or applicant's predecessors; it is not self-created.
  2. **Use Variance Review Standards.** The Board of Zoning Appeals may grant a requested use variance only upon finding that an unnecessary hardship exists. An unnecessary hardship is when the restrictions of the Zoning Ordinance on the property, when its environment is considered, are so unreasonable as to constitute an arbitrary and capricious interference with basic private property rights. A use variance is a variance that permits a use that is otherwise not permitted in a zoning district. A finding of unnecessary hardship shall require demonstration by the applicant of all of the following:
    - a) The property cannot be reasonably used for any purpose permitted in the zoning district without a variance.
    - b) The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
    - c) The variance will not alter the essential character of the area. In determining the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristics of the site and surrounding area will be considered.
    - d) The problem and resulting need for the variance has not been self-created by the applicant.
    - e) The spirit of the Ordinance will be observed, public safety secured, and substantial justice done, if the variance is approved.
  3. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony, and/or evidence from which the Board of Zoning Appeals may make the required findings.
- E. **Other Matters.** The Board of Zoning Appeals shall have authority to:
1. **Off-Street Parking and Loading Requirements.** Permit a variation, modification or exception in the requirements of Article 14, Parking of this Ordinance, if after investigation by the Board it is found that

such variation, modification or exception is necessary because of peculiar existing conditions and that such variation, modification or exception will not be inconsistent with the purpose and intent of this Ordinance.

2. Temporary Buildings. Permit temporary buildings and uses for periods not to exceed one (1) year as permitted under Section 13.15.
3. Temporary Uses of Land. Permit temporary uses of land in accordance with Section 13.16.
4. Public Utilities. Permit the erection and use of a building, or an addition to an existing building, of a public service corporation to be used for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements herein established, and permit the location in any use district of a public utility building structure, or use, provided the Board of Zoning Appeals shall find such use, height, area, building or structure reasonably necessary for the public convenience and service, and if an applicant under this subsection shall demonstrate to the satisfaction of the Board of Zoning Appeals that no reasonable alternative exists which, if employed, would allow full compliance with this Ordinance. In the exercise of its power granted under this subsection the Board of Zoning Appeals shall attach such conditions and requirements as shall reduce to a minimum any detrimental effects, and provided further that such building, structure, or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such a district.
5. Performance Bonds. Require a performance guarantee to insure compliance with any requirement or condition established in approving any variance. (See Section 13.23).
6. Other. Other items as provided in the Village ordinances and codes.

#### **F. Application.**

1. Application. An application to the Board of Zoning Appeals, in cases in which it has original jurisdiction under the provisions of this Ordinance, may be made by a person or property owner, including a tenant, or by a governmental officer, board, department or bureau.

Applications shall include items required by subsections 2, 3, and 4 below. Applicants shall provide all plans, studies, and other relevant information to be considered by the Board of Zoning Appeals.

The Board of Zoning Appeals shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filled, including relevant plans, studies, and other information.

2. Plan. A plan shall be required with all variance requests. The plan shall be to scale and shall include all property lines and dimensions, setbacks and all existing and proposed structures. Where an application involves a variance sought in conjunction with a site plan application, a site plan prepared according to Section 19.02 shall satisfy the requirements of this section. The plan shall contain all information as required on the Village application form.

The Board of Zoning Appeals has the authority to require a land survey prepared by a professional surveyor or registered engineer if the Board determines it to be necessary to insure accuracy of the plan.

3. Applications Involving an Appeal of Administrative Order. In a case involving an appeal from an action of an administrative official or entity (as specified in Section 19.04.B), the Village shall transmit to the Board of Zoning Appeals copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.
4. Consent of Property Owner Required. Applications for a variance shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

G. **Notice of Hearing.** The Board of Zoning Appeals in conducting any public hearing shall fix a reasonable time for the hearing of the appeal and shall give due notice to the parties concerned following the procedures of Public Act 110 of 2006, as amended.

1. The notice shall be given not less than 15 days before the date of the hearing on a proposed variance or appeal. Notices shall be sent to:
  - a) The individual demanding the appeal or requesting the variance.
  - b) The owner (or other owners) of the property, if different.
  - c) All persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures, regardless of whether the owner and property is located in the Village.
  - d) The general public by publication in a newspaper of general circulation in the Village.
2. The notice shall include:
  - a) The nature of the interpretation, appeal or variance being requested.
  - b) The property for which the interpretation, appeal or variance has been made.
  - c) A listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
  - d) The location where the request can be viewed prior to the date of the hearing.
  - e) The date, time and location of when the hearing before the Board of Zoning Appeals will take place.
  - f) The address to which written comments should be directed and the deadline prior to the hearing for submission of those comments.

H. **Decision.**

1. Conditions. The Board of Zoning Appeals, in acting on any appeal in connection with a request for variance, may attach any conditions to its approval that it finds necessary to accomplish the reasonable application of the foregoing standards.

In exercising the above power, the Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Village Official from whom the appeal is taken.

2. Stay of Proceedings. An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the Board of Zoning Appeals that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the Board of Zoning Appeals, or by a court of competent jurisdiction.
3. Decision by the Board of Zoning Appeals. The concurring vote of a majority of the full membership of the Board of Zoning Appeals, i.e. three (3) affirmative votes, shall be necessary to reverse any order, requirement, permit, decision, or determination of an administrative official, board or commission made in the administration of this Ordinance, and to decide in favor of an applicant on any matter upon which the Board of Zoning Appeals is required to pass under this Ordinance, except that a concurring vote of 2/3 of the full membership of the Board, i.e. four (4) affirmative votes, shall be necessary to grant a use variance from the terms of this Ordinance.

- I. **Approval Period.** No order of the Board of Zoning Appeals permitting the erection or alteration of a building shall be valid for a period longer than twelve (12) months unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building,

such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit within 24 months after the order of the Board of Zoning Appeals. The Board of Zoning Appeals may upon application in writing stating the reasons therefore, extend either the twelve (12) month or 24 month period for one (1) additional three (3) month period.

- J. **Applications Previously Denied.** Where a prior application for relief applying to a specific piece of property or a part of such property was denied by the Board of Zoning Appeals, the merits of a new application for the same relief shall not be accepted by the Board of Zoning Appeals for consideration, unless the Board of Zoning Appeals first, separately determines that one or more of the following conditions has been met:
1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the application.
  2. New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed.
  3. The new application is materially different from the prior application.
- K. **Fee For Appeals.** A fee as established by the Village Council for an appeal to the Board of Zoning Appeals shall be paid to the Village Treasurer at the time application for appeal is filed, unless payment of such fee is waived by the Village Council.

## Section 19.05 AMENDMENTS

- A. **Initiation of Amendment.** The Village Council of the Village of Lake Orion may amend, supplement or change any of the provisions of this Ordinance, pursuant to the authority and procedures set forth in Public Act 110 of 2006, as amended. A petition for amendment of the Zoning Ordinance may be initiated by the Village Council, the Planning Commission, or one or more persons of the general public.
- B. **Application for Amendment.** A petition for amendment of the Zoning Ordinance shall be submitted to the Village Clerk on a form supplied by the Village and accompanied by the necessary processing fees as may be established from time to time by the Village Council. The required number of copies required of the application and all materials to be submitted shall be as determined from time to time by the Village. No application will be processed until the required fees have been received by the Village.
1. **Text Amendment.** A text amendment is a change to the wording of a provision of the Zoning Ordinance. A petition for a text amendment shall contain, at a minimum, the following information:
    - a) The name, address, and telephone number of the petitioner.
    - b) The full text of the current article, section, and/or paragraph of the Zoning Ordinance that is proposed to be amended. If the proposed amendment is for a provision that is not currently in the Zoning Ordinance, then that fact shall be noted on the application.
    - c) The proposed full text of the article, section, and/or paragraph that is being submitted for amendment.
    - d) A statement as to why the proposed amendment is needed, and why the current provision should be changed.
    - e) The signature of the petitioner.
  2. **Map Amendment.** A map amendment is a change in the zoning designation on a parcel of land in the Village.



A petition for a map amendment (zoning designation change) shall contain, at a minimum, the following information:

- a) The name, address, and telephone number of the petitioner.
- b) A plot plan prepared under the direction of and sealed by one of the following professionals registered in the State of Michigan: Registered Architect, Registered Land Surveyor, Registered Civil Engineer, Registered Landscape Architect, or Registered Professional Community Planner, drawn to scale showing the property proposed to be rezoned showing:
  - 1) The tax identification number and lot lines of all parcels included in the rezoning petition.
  - 2) All structures, if any, on the parcels proposed to be rezoned.
  - 3) The current zoning on the parcel(s) proposed to be rezoned and the zoning on all parcels within three hundred (300) feet of the perimeter of the parcel(s).
- c) The proposed zoning designation desired for the property.
- d) A statement as to why the property cannot be used or developed as zoned.
- e) A statement as to why the requested zoning designation is more appropriate.
- f) A statement as to how the requested zoning designation relates to the Village of Lake Orion Master Plan.
- g) The legal description of the property proposed to be rezoned.
- h) Proof of ownership and authorization of the owner to rezone the property.

**C. Procedure For Processing an Amendment Application.**

1. Upon receipt of an application for a text or a map amendment, the Village Clerk or his/her designee shall review it for completeness. An incomplete application shall be returned to the petitioner with an indication of the item or items to be completed.
2. When the application is complete, the Village Clerk shall schedule it for public hearing on the next available Planning Commission agenda, subject to being able to meet public hearing notice requirements.
3. The Village Clerk shall cause notice of the public hearing to be published and given according to the procedures of Public Act 110 of 2006, as amended, which shall be by publication in a newspaper of general circulation in the Village and mailing to the companies identified in subsection (a)(iv) below at least 15 days before the hearing for all text and map amendments, and for proposed map amendments for any group of less than 11 adjacent parcels, shall also include mailing of notices within that time to the persons described in subsection (a) below.
  - a) When required, mailed notices shall be given not less than 15 days before the date of the hearing on a proposed zoning amendment to:
    - 1) The applicant.
    - 2) The owner (or other owners) of the property, if different.
    - 3) All persons to whom real property is assessed with 300 feet of the property and to the occupants of all structures, regardless of whether the owner and property is located in the Village.
    - 4) Public utilities, telecommunication service providers and airport managers that have registered their names and addresses with the Village Clerk for the purpose of receiving notices of public hearings.
  - b) The notice shall include:
    - 1) The nature of the zoning amendment being requested.
    - 2) The property for which the zoning amendment has been made.

- 3) If the zoning amendment is for 10 or fewer adjacent properties, a listing of all existing street addresses or other means of identifying the properties that are the subject of the zoning amendment.
  - 4) If the proposed map amendment is for 11 or more adjacent properties, the notice need not list street addresses of properties that are included in the map amendment.
  - 5) The location where the application documents can be viewed prior to the date the zoning amendment hearing.
  - 6) The address o which written comments should be directed and the deadline prior to the hearing on the zoning amendment for submission of those comments.
4. The order of business for the public hearing shall be:
- a) A statement by the Chair of the Planning Commission that the purpose of the public hearing is to gather information only and that the merits of the proposed amendment will not be discussed by the Planning Commission members at this hearing.
  - b) Presentation by the Planning consultant of information regarding the location of the property proposed for re-zoning, the current zoning designation, what structures, if any, currently exist on the property in question and the neighboring properties, and the zoning designation of the neighboring properties.
  - c) Presentation by the petitioner.
  - d) Comments and questions directed to the Chair of the Planning Commission from the general public.
  - e) Presentation of written communications, if any, submitted to the Planning Commission.
  - f) Questions for clarification purposes only by members of the Planning Commission to assist them in understanding the request for either a text or map amendment. The merits of the proposed amendment are not to be discussed by members of the Planning Commission at the public hearing.
5. Following the public hearing, the Planning Commission shall consider the review comments of the Planning consultant and others as appropriate and discuss the merits of the proposed amendment. The Planning Commission shall by resolution make a recommendation regarding the proposed amendment to the Village Council.
6. The Village Clerk shall transmit the recommendation of the Planning Commission to the Village Council.
7. The Village Council after receiving the recommendation of the Planning Commission may adopt in Ordinance form that recommendation, with or without amendments, or refer it back to the Planning Commission for further consideration and report.
8. If it considers it necessary, the Village Council may conduct additional public hearing(s) on the recommended amendment following the same procedures and public notice requirements established for the public hearing held by the Planning Commission.
9. No application for a map amendment which has been denied by the Village Council shall be reheard within three (3) years from the date of the denial unless there have been changes in the facts, evidence, and/or conditions in the case. A determination and recommendation to the Village Council on whether there have been such changes shall first be made by the Planning Commission at the time the application is submitted for the setting of a public hearing. A denial by the Planning Commission of a rehearing may be appealed by the applicant to the Village Council.
- D. **Notice of Record of Amendment Adoption.** Following adoption of a text or map amendment by the Village Council, notice of such adoption shall be published following the procedures listed in Public Act 110 of 2006, as amended.

The filing and publication requirements in this Section relating to the Village of Lake Orion Zoning Ordinance being based on the provisions of Public Act 110 of 2006, as amended, supersede charter provisions relating to the filing and publication of Village ordinances.

## **Section 19.06 PERMITS and CERTIFICATES**

- A. **Zoning Compliance Permits.** There shall be no new, changed, altered or moved uses or occupancies of land or any buildings or structures thereon, including excavations and construction, without first applying for and obtaining a zoning compliance permit from the Zoning Administrator. Every application for a zoning compliance permit shall be accompanied by written statements and plans or plats drawn to scale, and showing the following in sufficient detail to enable the Village to ascertain whether the proposed work or use is in conformance with this Ordinance:
1. The legal description, actual shape, location, and dimensions of the lot.
  2. The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any buildings or other structures already on the lot.
  3. The existing and intended use of the lot and all such structures upon it, including in the residential areas the number of dwelling units the building is intended to accommodate.
  4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
  5. Existing and proposed grades to an extent necessary to allow the Zoning Administrator and, when applicable, the Village Engineer, to properly determine the results of the proposed work.

If the proposed uses and activities as disclosed in a completed application are or will be in compliance with the provisions of this Ordinance, the Zoning Administrator shall issue a zoning compliance permit, which may include conditions or requirements to assure Ordinance compliance. If any application for such permit is not approved, the Zoning Administrator shall state in writing on the application the cause for such disapproval. Issuance of a zoning compliance permit shall in no case be construed as waiving any provisions of this Ordinance.

- B. **Building Permits.** The following shall apply in the issuance of any building permit under the Construction Code:
1. **Permits Required.**
    - a) Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical or plumbing system, shall apply for and obtain a zoning compliance permit from the Zoning Administrator under Section 19.06 before making application to the Building Official for any required building permit(s).
    - b) Work that is exempt from the building permit requirements of the, Construction Code may not be performed without a zoning compliance permit.
    - c) Performing or permitting work without a building permit required under the Construction Code is a violation of this Ordinance.
  2. **Zoning Compliance Permit.** The zoning compliance permit shall be part of the building permit application, with zoning permit compliance considered to be a requirement and condition of the building permit.
  3. **Permits for New Use of Buildings or Structures.** A building permit shall also be obtained for any change in use of an existing building or structure to a different class or type.

- C. **Certificates of Occupancy.** It shall be unlawful to make or permit a new or changed use of any land, building or structure for which a zoning compliance or building permit is required and to use or permit the use of any building or structure hereafter altered, extended, erected, repaired or moved, until issuance of a certificate of occupancy, confirming that the provisions of this Ordinance and any applicable Construction Code have been complied with.
1. Construction Code Certificates. A certificate of use and occupancy for new construction or renovations to existing buildings and structures, issued under the Construction Code, shall constitute a certificate of occupancy required by this Ordinance if at the time of issuance the provisions of this Ordinance have been complied with.
  2. Temporary Certificates. Temporary certificates of occupancy may be issued for a part of a building or structure prior to the occupation of the entire building or structure, provided that such temporary certificate of occupancy shall not remain in force more than six (6) months, nor more than five (5) days after the building or structure is fully completed and ready for occupancy, and, provided further, that such portions of the building or structure are in conformity with the provisions of this Ordinance. The Zoning Administrator and/or Building Official shall set a time period during which the temporary certificate of occupancy is valid. A performance guarantee as provided for in Section 13.23 may be required as a condition or requirement of a temporary certificate of occupancy.
  3. Records of Certificates. A record of all certificates of occupancy and temporary certificates of occupancy shall be kept on file in the Village offices, and copies of such certificates of occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
  4. Certificates for Accessory Buildings to a Dwelling. Accessory buildings or structures shall not require a separate certificate of occupancy if erected at the same time and on the same lot as a principal dwelling building and identified in the certificate of occupancy for the principal dwelling. Otherwise, said accessory buildings or structures shall require a separate certificate of occupancy.
  5. Zoning Certificates. If a certificate of use and occupancy is not required for a use or is issued before compliance with the provisions of this Ordinance, a zoning certificate of occupancy shall be issued by the Zoning Administrator upon such compliance and satisfaction of all requirements and conditions of the zoning compliance permit.
- D. **Inspections; Notice Required; Duties.** In order to insure compliance with the provisions of this Ordinance, the Building Official if a building permit has been issued, or the Zoning Administrator if there is no building permit, will be notified as construction or alteration reaches the following stages:
1. Prior to completion of the footings and prior to the erection of any foundations.
  2. Upon completion of all each stage of work authorized by the zoning compliance and/or building Permit for which an inspection requirement is disclosed. Until inspection is completed, no further work shall be performed. At each inspection, the Building Official and/or Zoning Administrator shall insure that all work accomplished complies with the applicable provisions of this Ordinance. If it is determined that any provision of this Ordinance has been violated, there shall be an immediate suspension of the zoning compliance and building permit, and such suspension shall remain in effect until correction of all violations shall have been approved by the Building Official and/or Zoning Administrator.
- E. **Fees.** Fees for inspections and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance shall be collected by the Village Zoning Administrator's designee in advance of the issuance of such permits or certificates.

The amount of such fees shall be established by Resolution of the Village Council, from time to time, and shall cover the cost of inspection, supervision, administration and enforcement of this Ordinance.

## Section 19.07 CONDOMINIUM DEVELOPMENT STANDARDS

The intent of this Section is to provide regulatory standards for condominiums and condominium subdivisions similar to those required for projects developed under other forms of ownership.

### A. General Requirements.

1. Each condominium lot shall be located within a zoning district that permits the proposed use.
2. Each condominium lot shall front on and have direct access to a paved public street or a private street approved by the Planning Commission.
3. All condominium subdivision plans shall conform to the plan preparation requirements, design, layout, and improvements standards and all other requirements as established in the Village of Lake Orion Subdivision Regulations.
4. For the purposes of this Ordinance, each condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located.

### B. Site Plan Approval Required.

Approval of the site plan and condominium documents by the Planning Commission shall be required as a condition to the right to construct, expand or convert a condominium project.

### C. Approval Process.

1. A site plan pursuant to the standards and procedures set forth in Section 19.02 shall be submitted to the Planning Commission for review.
2. The applicant shall submit the condominium documents and master deed to the Village staff and consultants for review. The condominium documents shall be reviewed with respect to all matters subject to regulation by the Village.
3. The applicant shall also submit to the Zoning Administrator or his designee plans in sufficient detail for the Village, along with appropriate consultants, to determine compliance with applicable laws, ordinances and design standards for construction of the project.
4. Upon completion of the review of the condominium documents and plans and receipt of the recommendations from Village staff and consultants, the site plan shall be submitted to the Planning Commission for review in accordance with Section 19.02.
5. If the site plan, condominium documents and/or engineering plans conform in all respects to applicable laws, ordinances and design standards, approval shall be granted by the Planning Commission.
6. If the site plan, condominium documents and/or engineering plans fail to conform to the Ordinance or development standards, final approval shall be denied by the Planning Commission.
7. In the interest of insuring compliance with this Article and protecting the health, safety and welfare of the residents of the Village, the Planning Commission, as a condition of approval of the site plan, may require the applicant to deposit a performance guarantee as set forth in this Ordinance for the completion of improvements associated with the proposed use.

### D. Information Required Prior to Building Permits.

Prior to the issuance of building permits for any condominium units, the applicant shall submit the following to the Village:

1. A copy of the recorded condominium documents (including exhibits).
2. A copy of any recorded restrictive covenants.
3. A copy of the site plan on laminated photostatic copy or mylar sheet.

- E. **Information Required Prior to Issuance of Certificate of Occupancy.** Evidence of completion of improvements associated with the proposed use, including two copies of an "as-built survey", shall be submitted to the Village prior to any certificate of occupancy.
- F. **Revision of Condominium Plan.** If the condominium subdivision plan is revised, the site plan shall be revised accordingly and submitted for review and approval or denial by the Planning Commission before any building permit may be issued, where such permit is required.
- G. **Amendment of Condominium Documents.** Any amendment to a master deed or bylaws that affects the approved site plan or any conditions of approval of a site plan shall be reviewed and approved by the Village staff or consultants and Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the original site plan.

## **Section 19.08 Conditional Rezoning (CR)**

- A. **Intent.** The Planning Commission and Village Council have recognized that, in certain instances, it would be advantageous to both the Village and property owners seeking rezoning if a plan, along with conditions and limitations that may be relied upon by the Village, could be proposed as part of a petition for rezoning. Therefore, it is the intent of this Section to provide an election to property owners in connection with the submission of petitions seeking the amendment of this Ordinance for approval of a rezoning with conditions, per Public Act 110 of 2006, as amended.
- B. **Definitions.**
  - 1. Rezoning Conditions shall mean conditions proposed by the applicant and approved by the Village as part of an approval under this Section, including review and recommendation by the Planning Commission, which shall constitute regulations in connection with the development and use of property approved with a rezoning condition in conjunction with a rezoning. Such Rezoning Conditions shall not authorize uses or developments of greater intensity or density and which are not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the Conditional Rezoning Agreement), and may include some or all of the following:
    - a) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture, and other features shown on the CR Plan.
    - b) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use, for example, and without limitation, units per acre, maximum usable floor area, hours of operation and the like.
    - c) Preservation of natural resources and/or features.
    - d) Facilities to address drainage/water quality.
    - e) Facilities to address traffic and parking.
    - f) Preservation of open space.
    - g) A written understanding for permanent maintenance of natural resources, features, and/or facilities to address drainage/water quality, traffic, open space and/or other features or improvements; and, provision for authorization and finance of maintenance by or on behalf of the Village in the event the property owner(s) fail(s) to timely perform after notice.
    - h) Signage, lighting, landscaping, and/or building materials for the exterior of some or all structures.
    - i) Permissible uses of the property.
    - j) Preservation of historic structures or sites to preserve the history of the Village of Lake Orion.

- k) Donation of land for open space, using a land conservancy or other means, to protect the open space for future generations.
  - l) Paving, making substantial improvements to, or funding of improvements to major roads or traffic facilities where the entire community benefits.
  - m) Construction and/or donation of community buildings where the need has been identified and defined by the Village.
  - n) Provide usable and contiguous open space amounting to at least 40% of the site, using the concept of clustering.
  - o) Added landscaping, above and beyond what is required by Village Ordinance.
  - p) Reclamation and re-use of land, where previous use of land causes severe development difficulties, or has caused blight.
  - q) Installation of streetscape on an arterial road, beyond what is required by ordinance, and where compatible with Village guidelines concerning trees, streetlights, and landscaping.
  - r) Drain and drainage improvements, beyond what is required by Ordinance, using best management practices.
  - s) Providing monuments or other landmarks to identify Village boundaries.
  - t) Such other conditions as deemed important to the development by the applicant.
2. **Conditional Rezoning (CR) Agreement** shall mean a written agreement approved and executed by the Village and property owner, incorporating a CR Plan, and setting forth Rezoning Conditions, conditions imposed pursuant to Public Act 110 of 2006, as amended, and any other terms mutually agreed upon by the parties relative to land for which the Village has approved a rezoning with Rezoning Conditions. Terms of the CR Agreement shall include agreement and understanding of the following:
- a) That the rezoning with Rezoning Conditions was proposed by the applicant to induce the Village to grant the rezoning;
  - b) That the Village relied upon such proposal and would not have granted the rezoning but for the terms spelled out in the CR Agreement;
  - c) That the conditions and CR Agreement are authorized by all applicable state and federal laws and constitutions;
  - d) That the CR Agreement is valid and was entered into on a voluntary basis, and represents a permissible exercise of authority by the Village;
  - e) That the property in question shall not be developed or used in a manner inconsistent with the CR Plan and CR Agreement;
  - f) That the approval and CR Agreement shall be binding upon and inure to the benefit of the property owner and Village, and their respective heirs, successors, assigns, and transferees;
  - g) That, if a rezoning with Rezoning Conditions becomes void in the manner provided in this Section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established; and
  - h) That each of the requirements and conditions in the CR Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved rezoning with Rezoning Conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

3. **Conditional Rezoning (CR) Plan** shall mean a plan of the property which is the subject of a rezoning with Rezoning Conditions, prepared by a licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the CR Plan shall be determined by the applicant, subject to approval of the Village Council after recommendation by the Planning Commission.

**C. Authorization and Eligibility.**

1. **Application.** A property owner shall have the option of making an election under this Section in conjunction with a submission of a petition seeking a rezoning. Such election may be made at the time of the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning. The election shall be made by filing an application conforming with this Section for approval of a Conditional Rezoning that would establish site-specific use authorization if the petition for rezoning is granted. Such election shall be to seek a rezoning with Rezoning Conditions pursuant to Public Act 110 of 2006, as amended, which would represent a legislative amendment of the Zoning Ordinance.
2. **Site Specific Regulations.** In order to be eligible for the proposal and review of a rezoning with Rezoning Conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR Plan and in a CR Agreement to be prepared) which are, in material respects, equally or more strict or limiting than the regulations that would apply to the land under the proposed new zoning district, such as set forth in subparagraphs 1 through 20 of the definition of the "Rezoning Conditions," above.

**D. Required Application Information.**

1. A CR Plan, as defined in Section 19.0x(2)(c) above. The CR Plan shall not replace the requirement for site plan review and approval, special land use approval, or subdivision or condominium approval, as the case may be.
2. Statement of Rezoning Conditions, as defined in Section 19.0x(2)(a) above. Rezoning Conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the CR Agreement).
3. A CR Agreement, as defined in Section 19.0x(2)(b) above. The CR Agreement shall be prepared by the applicant (or designee) and approved by the Village Attorney. The CR Agreement shall incorporate the CR Plan and set forth the Rezoning Conditions, together with any other terms mutually agreed upon by the parties (including the minimum provisions specified in the definition of CR Agreement, above).

**E. Review and Approval Criteria.** The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR Plan, Rezoning Conditions, and CR Agreement:

1. **Enhancement of the Project Area.** Approval of the application shall accomplish, among other things, and as determined in the discretion of the Village Council, the integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the requested zoning change, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Conditional Rezoning.
2. **In the Public Interest.** Sufficient conditions shall be included on and in the CR Plan and CR Agreement on the basis of which the Village Council concludes, in its discretion, that, as compared to the existing zoning and considering the site specific land use proposed by the applicant, it would be in the public interest to grant the rezoning with Rezoning Conditions; provided, in determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles, as presented to the Village Council, following recommendation by the Planning Commission, and also taking into consideration the special knowledge and understanding of the Village by the Village Council and Planning Commission.



**F. Review Process.**

1. **Pre-Application Meeting.** Prior to the time of making application for a Conditional Rezoning, the applicant shall schedule a pre-application submission meeting with the Village Manager, the Village Planner, the Village Engineer, the Village Attorney, or their designees, for a preliminary review of the application for Conditional Rezoning and so that the applicant has a thorough understanding of the process. The Applicant shall pay the Village's costs and expenses incurred for this meeting.
2. **Offer of Conditions.** At the time of making application for amendment of this ordinance seeking a rezoning of property, or at least a later time during the process of Village consideration of such rezoning, a property owner may submit an application for approval of a Conditional Rezoning to apply in conjunction with the rezoning.
3. **Application.** The application, which may be amended during the process, shall include a CR Plan proposed by the applicant and shall specify the Rezoning Conditions proposed by the applicant, recognizing that Rezoning Conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
4. **Notice of Public Hearing.** The proposed rezoning with Rezoning Conditions, together, shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment to the Zoning Ordinance in accordance with Section 19.05.
5. **Planning Commission Recommendation.** Following the public hearing and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the Village Council on the proposed rezoning with Rezoning Conditions.
6. **Village Council Action.** Upon receipt of the recommendation of the Planning Commission, the Village Council shall commence deliberations on the proposed rezoning with Rezoning Conditions. If the Village Council determines that it may approve the rezoning with Rezoning Conditions, the Village Council shall specify tentative conditions and direct the Village Attorney to work with the applicant in the finalization of the proposed CR Agreement.

- G. Zoning Map Designation.** If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Conditional Rezoning". The Zoning Map shall specify the new zoning district plus a reference to "CR" (for example, the district classification for the property might be MU, Mixed Use with CR, Conditional Zoning, with a zoning map designation of MU/CR) and use of the property so classified and approved shall be restricted to the permission granted in the CR Agreement, and no other development or use shall be permitted.

**H. Use of Property.**

1. **Generally.** The use of the property in question shall, subject to Section 19.0x(8)(b) below, be in total conformity with all regulations governing development and use within the zoning district to which the property has been rezoned, including, without limitation, permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open space areas, and land use density.
2. **Development Subject to Conditional Rezoning Requirements.** Development and use of the property shall be subject to the more restrictive requirements shown or specified on the CR Plan, and/or in the other conditions and provisions set forth in the CR Agreement, required as part of the Conditional Rezoning approval, and such CR Plan and conditions and CR Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.

- I. Recordation of CR Agreement.** A Rezoning with Rezoning Conditions shall become effective following publication in the manner provided by law and after recordation of the CR Agreement with the County Register of Deeds, whichever is later.

- J. Amendment to CR Agreement.** Amendment of a CR Agreement shall be proposed, reviewed and approved in the same manner as a new rezoning with Rezoning Conditions.

- K. **Expiration.** Unless extended by the Village Council for good cause, the rezoning with Rezoning Conditions shall expire following a period of two (2) years from the effective date of the Rezoning unless construction on the development of the property pursuant to the required permits issued commences within such two (2)-year period and proceeds diligently and in good faith as required by ordinance to completion.
1. Extension of Approval. In the event the development has not commenced, as defined above, within two (2) years from the effective date of the rezoning, the Conditional Rezoning and the CR Agreement shall be void and of no effect. The property owner may apply to the Village Council for a 1-year extension one (1) time. The request must be submitted to the Village before the two (2)-year time limit expires. The property owner must show good cause as to why the extension should be granted.
  2. Violation of the CR Agreement. If development and/or actions are undertaken on or with respect to the property in violation of the CR Agreement, such development and/or actions shall constitute a nuisance per se. In such cases, a stop work order may be issued relative to the property and any other lawful remedies sought. Until curative action is taken to bring the property into compliance with the CR Agreement, the Village may withhold, or following notice, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.
  3. Village Action Upon Expiration. If the Rezoning with Rezoning Conditions becomes void in the manner provided in above, then the Village shall rezone the property to its former zoning classification in accordance with the Zoning Ordinance procedures. Additionally, the property owner may seek an alternative zoning designation. Until such a time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

# Article 20.

## Violations and Penalties

### **Section 20.01 VIOLATION DEFINED**

Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance or any of the regulations adopted in pursuance thereof, or who impedes or interferes with the enforcement of this Ordinance by the Zoning Enforcement Officer or other enforcement official, shall be deemed in violation of this Ordinance.

### **Section 20.02 PENALTY**

Any person, firm or corporation determined to have been in violation of the provisions of the Village of Lake Orion Zoning Ordinance shall be responsible for a municipal civil infraction and subject to the provisions of Section 10-99A(2) of the Village of Lake Orion Code of Ordinances.

Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains any violation of the Ordinance may each be found guilty of a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator.

The imposition of any sentence shall not exempt the offense from compliance with the requirement of this Ordinance.

### **Section 20.03 RIGHTS AND REMEDIES PRESERVED**

Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver of nor prevent any further prosecution of violations of this Ordinance.

### **Section 20.04 VIOLATION IS A NUISANCE PER SE**

Except as otherwise provided by law, a use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered, razed, or converted in violation of this ordinance or an approval, decision, permit, certificate or condition granted, issued or imposed under this ordinance is a nuisance per se the abatement of which shall be ordered by a court of competent jurisdiction.

# Article 21. Severability

## **Section 21.01    VALIDITY**

This Ordinance and the various articles, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

# Article 22.

## Repeal

### **Section 22.01    CONFLICTING PROVISIONS REPEALED**

All other ordinances and parts of ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed. Ordinance Number 26.01, adopted March 22, 1971, Ordinance 26.20, adopted August 14, 1978 as amended, and Ordinance 26.30 adopted May 9, 1983, and known as the Zoning Ordinance of the Village of Lake Orion, Michigan are specifically repealed in their entirety. This repeal does not apply to, and shall not affect the validity or enforceability of the rezoning to Planned Unit Development (PUD) under Ordinance No. 26.30, for three (3) separate projects commonly known as follows under the indicated Ordinance Numbers: (1) Village Homes, Ord. No. 26.75, (2) Atwater Commons, Ord. Nos. 26.81 and 26.84, and (3) Orion Pointe, Ord. Nos. 26.85 and 26.88.

# Article 23. Effective Date

## **Section 23.01    EFFECTIVE DATE**

The provisions of this Ordinance are hereby declared to be necessary for the preservation of the public peace, health, safety, and welfare of the people of the Village of Lake Orion, and shall take effect January 1, 2011, after publication of a notice of adoption as required by law.