

ZONING

Chapter 25

From the

CODE

Of the

VILLAGE OF LAKEWOOD

COUNTY OF CHAUTAUQUA

STATE OF NEW YORK

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Chapter 25

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**ARTICLE I**  
**Title; Purpose; Application**

**§ 25-1. Title.**

The following is a local law regulating the location, construction and use of buildings and structures and the use of land in the Village of Lakewood, County of Chautauqua, State of New York and for said purposes dividing the village into districts. This local law shall be known and cited as the “Zoning Law of the Village of Lakewood.”

**§ 25-2. Enactment.**

Pursuant to the authority conferred by the laws of the State of New York and for each of the purposes specified therein, the Village Board of the Village of Lakewood, County of Chautauqua and the State of New York, has ordained and does hereby enact the following local law regulating and restricting the location, size and use of buildings and other structures and the use of land in the municipality.

**§ 25-3. Purpose.**

- A. Comprehensive Plan. The Zoning Regulations and districts set forth and outlined upon the Zoning map are made in accordance with a Comprehensive Plan for the Village. The enactment of the Zoning Law brings benefits to the community which may not be highly or immediately visible. However, the resulting conditions will enhance and preserve the quality of living, health and safety for the municipality.
- B. The general benefits derived from zoning laws include the following:
  - (1) To promote the health, convenience, economics and general welfare of the community.
  - (2) To balance the rights of the large, private landowners and other various interest groups.
  - (3) To encourage the positive shaping of the future and the long-range benefits associated with zoning laws.
  - (4) To allow for the maintenance of an equitable assessment role.
  - (5) If the zoning is controlled locally, it may be amended to meet changing needs, and it shall have built-in flexibilities for unique situations.
- C. Safety. From a safety viewpoint, zoning laws can assist in the following:
  - (1) To promote firesafety by controlling building heights, separation of structures, etc.
  - (2) To promote traffic safety by protecting the traffic-carrying capabilities of highways through setbacks, etc.
  - (3) To ensure that floodplains are reasonably controlled with respect to types of uses and densities, in order to prevent the destruction or loss of private and public housing, damage to public facilities and injury to the loss of human life.
  - (4) To protect residents from other conditions which could cause injury or death.
- D. Quality. Zoning laws perpetuate the highest possible quality of life by:
  - (1) Promoting the retention of an aesthetically pleasing community by minimizing nuisances and visually unattractive developments.
  - (2) Ensuring adequate light, air, open space and green space.
  - (3) Maintaining the character of residential neighborhoods by providing appropriate locations for living and raising a family through types of uses encouraged in a district.

- E. Economics. Zoning laws also positively affect a community's economic structure by:
  - (1) Optimizing the use of existing infrastructure.
  - (2) Utilizing existing roadways optimally while discouraging the creation of new roads, except as needed.
  - (3) Encouraging the retention of commercial and industrial properties for those uses for which they are best suited.
  - (4) Encouraging the largest tax base possible through controlled development.
  - (5) Enhance the assets & water quality of Chautauqua Lake.
  
- F. Stability. Zoning laws also contribute a great deal to neighborhood stability by:
  - (1) Protecting property values and individual investments by encouraging proper development for each type of district.
  - (2) Maintaining the character of a neighborhood by providing a stable and orderly living environment.
  - (3) Keeping nuisances to a minimum, especially in residentially oriented neighborhoods.
  
- G. Health. Zoning laws protect public health through establishment of standards which address these issues. A zoning law:
  - (1) Ensures that appropriate amounts of light, air and open space are available for all residents.
  - (2) Reinforces health standards, particularly with respect to sewage and water-related problems.
  - (3) Keeps unhealthy situations from arising which could cause disease or injury.

**§ 25-4. Application of regulations.**

- A. Compliance responsibility. It shall be the responsibility of all property owners, developers, lessors or others involved with the temporary or permanent use of land or structure to comply with the regulations of this Zoning Law. No building or buildings shall be erected or altered which will substantially limit the usefulness of depreciate the value of the surrounding property.
  
- B. Regulation applicability. The regulations of this local law shall apply and shall require a zoning permit. Except as specifically exempted, for the following situations:
  - (1) To occupy a structure or land.
  - (2) To erect, alter, enlarge, move or demolish a structure.
  - (3) To change one use to another use to include the increasing of families utilizing land or structures.
  
- C. Other related regulations. The following regulations shall, as applicable, be complied with prior to occupancy or where specifically stated prior to issuance of a zoning permit:
  - (1) Subdivision laws. State and existing local subdivision laws must be complied with in addition to this Zoning Law.
  - (2) National Flood Insurance Program. It shall be the responsibility of the applicant for a zoning permit to ensure that the National Flood Insurance Regulations, in addition to Zoning Regulations, shall be complied with for those parcels located within the floodplain as shown on official Flood Insurance Administration maps.
  - (3) State Environmental Quality Review Act. Any development requiring a permit, as well as amendments to this local law, shall be subject to an environmental assessment in accordance with state law.
  - (4) Fire and Building Code. No structure shall be erected, altered or used unless it complies, where applicable, with the New York State Uniform Fire and Building Code. The Fire and Building Code Enforcement Officer shall be sent copies of all zoning permits.

**ARTICLE II**  
**Definitions**

**§ 25-5. Word usage.**

For the purpose of this local law, certain terms or words herein shall be interpreted or defined as follows: Words used in the present tense include the future tense. The singular includes the plural. The word “person” includes a corporation as well as an individual. The word “lot” includes the word “plot” or “parcel”. The term “shall” is always mandatory. The word “used” or “occupied”, as applied to any land or building, shall be construed to include the words “intended”, arranged or designed to be used or occupied”.

**§ 25-6. Definitions.**

A. Words and terms used in this local law are defined as follows:

**ACCESSORY APARTMENT** - A secondary apartment developed in an existing single family dwelling which meets the following conditions: No more than one (1) unit shall be created per dwelling unit in districts where multiple units are not allowed, the apartment shall be square feet in floor space, with the resultant primary dwelling meeting all area requirements, such as minimum floor space; sufficient off-street parking shall be provided; no visible signs of an apartment shall be present; and, finally, accessory building may not be utilized.

**ACCESSORY STRUCTURE** (With a roof and with or without walls) – A structure which is subordinate to principal building or principal use; is subordinate in area, extent or purpose to the principal building or principal use served; contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and is located on the same lot as the principal building or principal use served but is not allowed to be located in a front yard. Examples include but are not limited to storage buildings, pool houses, gazebos, pavilions, car ports, playhouses, etc. shall be included in this section.

**ACCESSORY DWELLING UNIT** – Dwellings intended for temporary occupancy, including but not limited to travel trailer, motor home, truck camper or tent occupied by person other than those generally residing in the primary dwelling unit and located on the same parcel as the primary unit.

**ADULT ESTABLISHMENT** - A commercial establishment, including but not limited to an adult bookstore, adult eating or drinking establishment, adult theater, adult motel, massage establishment, nude model studio or other adult commercial establishment.

**AGRICULTURAL STRUCTURE** – Any structure used primarily and directly for agricultural activities, and including but not limited to barns, silos, storage shed, corn cribs, milk houses and similar structures.

**AGRICULTURE, LIMITED** – The production of crops, plants, vines and trees, provided no substantial odor or dust is produced within one hundred (100) feet of any building on adjacent property.

**AIRPORT** – Any land or water space frequently used for the landing and takeoff of any aircraft, including helicopters. All airports must comply with federal and state regulations and be approved by the Commissioner of Transportation for New York State.

**ALTERATION** – As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or increasing in

height, or moving from one location or position to another. The term “alter”, in its various modes and tenses and its particular form, refers to the making of an alteration.

**AMBIENT NOISE** – The all-encompassing noise associated with a given environment, being usually a composite of sounds from near and far.

**ANIMAL, FARM** – Any animal which customarily is raised for profits on farms and has the potential of causing a nuisance if not properly maintained.

**APARTMENT HOUSE** – A building arrangement, intended or designed to be occupied by four (4) or more families living independently of each other. Condominiums and Townhouses shall be considered to be apartments.

**BAR** – Any establishment, however designated, at which alcohol is sold for consumption on premises as a primary use to twenty-five percent (25%) or more of the patrons [minimum of ten (10)] on a regular basis. Thus, a restaurant that caters to the sale of alcoholic beverages at certain portions of the operating hours shall be considered to be a dual use restaurant/bar for the purposes of this local law.

**BARBECUE** – The process of cooking, broiling, or roasting of food.

**BARBECUE DEVICE** – Any framework, grill, barbecue pit, or stove, or combination thereof, located outdoors, or not enclosed within a building or structure, used for cooking, broiling, or roasting of food.

**BED AND BREAKFAST** – An owner occupied dwelling offering overnight accommodations and breakfast.

**BOARDINGHOUSE** – Any single-family dwelling unit lived in by a family where, for compensation, guest room lodging is provided with or without meals. The term “boarding home” shall include “rooming house” “lodging house” and other similar terms.

**NOTE:** Effective March 10, 1989, N.Y. State Court of Appeals ruled that no limit on the number of unrelated people in single family homes is legal.

**BOOKSTORE** – A business dealing in the sale of new or used books and magazines.

**BUFFER** – A strip of land, fence or border of trees, etc., between one use and another, which may or may not have trees and shrubs planted for screening purposes, designed to set apart one use area from another. An appropriate “buffer” may vary depending on uses, districts, size, etc., and shall be determined by the permitting board.

**BUILDING** – Any structure having a roof supported by columns or by four (4) independent, nonparty walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

**BUILDING AREA** – The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive or uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

**BUILDING LINE** – A line formed by the intersection of a horizontal plane of average grade level and a vertical plane that coincides with the exterior surface of the building on any side. In case of a cantilevered section of a building or projected roof or porch, the vertical plane will coincide with the most projected surface. All yard requirements are measured to the building line.

**BUILDING PERMIT** – See “zoning permit”



**BUILDING SETBACK LINE** – An established line within a property defining the minimum required distance between the face of any structure to be erected and the right-of-way of an adjacent highway.

**BUSINESS, LIMITED** – Any commercial operation dealing in retail sales or services in which the following conditions are met: a maximum of two hundred (200) square feet of floor space is utilized, no nuisance is created and there is a maximum of one (1) employee and a maximum of three (3) clients at any one (1) time.

**BY RIGHT** – Refers to uses requiring a permit but with no public hearing required.

**CLUB** – An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided that there are not conducted any vending stands, merchandising or commercial activities, except as required generally for the convenience of the membership and purposes of such club.

**CLUSTER DEVELOPMENT** – A development of five (5) acres or more where a developer may elect, after Board approval, to cluster or group his development in return for the permanent creation of common areas. Overall, the density of development remains approximately the same as required by the district area requirements.

**COMMERCIAL BARBECUE** – The sale, dispensing, or serving of any barbecued food to the general public for a charge, where such barbecue food is prepared using a Barbecue Device, as defined herein, whether or not such device is employed upon the premises where the food is to be sold.

**CUSTOM WORKSHOP** – A business used for the making of individual one-of-a-kind products for retail sale.

**CVEMS** – Commercial Electronic Variable Message Signs, including Digital Bill Boards or Electronic Bill Boards – A digital light emitting diode advertising sign.

**DAY** – The hours between 7:00 A.M. and 11:00 P.M.

**DAY CARE CENTER** – A structure, together with its lot, operated on a regular basis for the purpose of providing care for five or more children. Similar uses going under names, such as day nurseries, shall, for the purpose of this local law, be considered to be “day care centers”.

**DECIBEL** – A standard unit of acoustic measurement having a zero-reference of two ten-thousandths (0.0002) microbar.

**DECK** – An unroofed open structure projecting from an outside wall of a structure without any form of enclosure.

**DESIGN/ARCHITECTURAL STANDARDS** – Standards approved by the Municipal Board for use in guiding the design of new signs. A Design Review Board, appointed by the Municipal Board, shall be responsible for the administration of the design/architectural standards.

**DEVELOPMENT** – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations.

**DOMESTIC ANIMAL** – An animal that normally would be considered a household pet by the SPCA.

DRIVE-IN – Businesses designed to either wholly or partially provide services or products to customers while in their automobiles and parked on the premises. Examples include, but are not limited to, film shops, drive-in theaters and fast-food restaurants.

DUPLEX – A dwelling arranged, intended or designed to be occupied by two (2) families living independently of each other.

DWELLING UNIT – One (1) or more rooms providing living facilities, including equipment and provisions for cooking, for a single household, including one (1) or more persons living as a family. “Dwelling units” shall be categorized by five (5) construction types:

- (1) Conventional. A permanent single or multiple family dwelling unit which is built on site using conventional stick construction techniques among others.
- (2) Modular. A permanent single or multiple family dwelling unit which is brought to the building site as two (2) or more units on a transport trailer. “Modular” dwelling units have no support frames as found on mobile homes but instead are placed on a separate foundation. “Modular” dwelling units contain the same utility systems as conventional dwelling units. “Modular” dwelling units are not designed to be moved after they have been lifted onto a foundation. They are a minimum of twenty-four (24) feet wide.
- (3) Prefabricated. A permanent single or multiple family dwelling unit which is built on site from precut and partially assembled building members. “Prefabricated” dwelling units are usually on the same construction techniques as conventional dwelling units but are generally purchased as a predesigned and precut package for assembly on site.
- (4) Mobile home. A transportable, fully assembled single-family dwelling unit suitable for year-round occupancy. Mobile dwelling units contain the same utility systems (water, waste and electricity) as found in conventional dwelling units. Mobile dwelling units are supported by a chassis, which is an integral part of the unit. Mobile dwelling units are not designed to be lived in, except when set up on a lot with proper utilities. This does not include travel trailers which are self-contained. For the purpose of this local law “mobile homes” are listed separately as allowed uses and are not considered to be single-family units.
- (5) Sectional Homes. A factory built housing unit with a minimum 4/12 roof pitch delivered to the site and placed on a permanent foundation.

EATING AND DRINKING ESTABLISHMENTS – Places where food and/or beverages are prepared and/or sold for consumption on the premises or for takeout, including restaurants, tea rooms, cafeterias, bars, taverns and lunchrooms.

ENFORCEMENT OFFICER – The Code Enforcement Officer of the municipality.

ESSENTIAL SERVICES – The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of gas, electric, steam, water, sewerage and communication systems and facilities. Railroad trackage and facilities and bus shelters shall also be considered as providing an “essential service”.

FAMILY – One (1) or more persons, related by birth, marriage or other domestic bond, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FARM – Any parcel of land containing at least ten (10) acres which is used to raise/grow agricultural products, livestock, poultry and/or dairy products with the intent of financial gain. It includes necessary farm structures and the storage of equipment used.

FENCE – Any artificially constructed barrier with the purpose or intent of preventing passage or view, thus providing privacy.

FENCE, BARRIER – Any fence which is located near the perimeter of the property of which it is intended to provide privacy.

FENCE, FARM – Any fence, whether located on a farm or not, which has, as its primary purpose, the control of nondomestic animals.

FENCE, NONBARRIER – Any fence located a distance from the property line which provides privacy to a portion of land, such as a patio or swimming pool.

FIRE RESISTANT – Any materials which possess the properties, construction or assembly qualities which, under fire conditions, prevents or retards the passage of excessive heat, gases or flames and thus is not easily ignited.

FLAMMABLE – Capable of igniting within five (5) seconds when exposed to flame and continuing to burn.

FLOATING DISTRICT – Any Zoning District for which district regulations are included in this local law and yet for which no land has initially been designated on the Zoning Map to be included in said district. Such a district may become a reality through the amendment of the Zoning Map of the municipality in accordance with the amendment procedures of this local law. The initiation of the creation of such a district may come from residents, the Planning Board, a developer or the Municipal Board itself, while the decision whether to activate such a district shall be made based upon the need for such a district.

FLOOR SPACE – The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business. Said areas shall be measured between the outside face or exterior walls or from the center line of walls separating two (2) uses. Said areas shall not include areas below the average level of the adjoining ground, garage space or accessory building space.

FRONT YARD – Front yard shall be considered the address side of the building.

GARAGES, PRIVATE – A secondary building used in conjunction with a primary building which primarily provided for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

GARAGES, PUBLIC – Any garage other than a private garage, operated for gain and available a rental basis for the storage of motor vehicles, including the supply of gasoline and oil.

GAS STATION – The retail sale of fuel and related oil products, as well as minor service repairs and routine maintenance, to include oil and tire changes.

GRAVEL PIT/QUARRY/SAND PIT – A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale, as an industrial operation, and exclusive of the process of grading a lot preparatory to the construction of a building for which application for a zoning permit has been made.

GREEN SPACE – A combination of lawn, plantings, shrubs, trees, other vegetation and ground cover (less than 50%) over a permeable surface.

HEALTH INSPECTOR – Any employee or agent of the State or County Health Department assigned to perform the duties of Health Inspector contemplated for this chapter.

HEAVY VEHICLES – Any vehicle with over a 10,000 pound GVW gross weight.

HEIGHT – The vertical distance from the highest point on a structure to the average ground level of the grade where the wall or other structural elements intersect the ground.

HOME FOR AGED – A structure principally used to house senior citizens in which a separate household is established for each family. Nursing homes are not considered to be a “home for aged.”

HOME OCCUPATION – A use conducted within a dwelling and carried on by the inhabitants thereof, which is clearly secondary to the use of the dwelling for dwelling purposes and does not substantially change the character of the residence or neighborhood.

HORTICULTURE, PRIVATE – The growing of fruits, vegetables, flowers or ornamental plants for one’s own pleasure and use. It is also referred to as a “private garden.”

HOUSEHOLD SALE – Includes lawn sales, patio sales, garage sales, basement sales, flea markets, bazaars or other similar types of sales. A “household sale” shall be distinguished from a business in that it involves the infrequent sale of used merchandise which, for private sales, was not obtained from outside the household. Nonprofit or fraternal organizations, on the other hand, may obtain their sale items from donations received from members or other sources.

HOUSING, ELDERLY – Apartments containing eating, sleeping and living space and designed with elderly, fully independent residents in mind. Generally, these apartments contain smaller than normal floor space and require less parking and less active recreational area. Additionally, common eating areas are sometimes provided.

IMPULSIVE NOISE – A noise of short duration.

INDUSTRY, GENERAL – The manufacture, preparation, processing, milling or repair of any article, substance or commodity, which involves no dangerous or toxic product or emissions. Additionally, noise, odors, or other nuisance’s incidental to productions and processing shall be limited to a level which does not affect the use or enjoyment of property outside of the Industrial District.

INDUSTRY, LIMITED – An industrial or wholesale venture which is the primary or major occupant of a structure and possesses the following characteristics: It utilizes a maximum of two thousand (2,000) square feet of floor space, employs less than five (5) employees, does not generate over one hundred (100) vehicles of business per twenty-four-hour period, does not have a substantial effect on the character of the neighborhood and generates no nuisances (smoke, odor, electrical interference, etc.).

INOPERABLE MOTOR VEHICLE – The same as “junk vehicle.”

JUNK VEHICLE – Any vehicle no longer in a condition for legal use on public highways.

JUNKYARD – See definition of “scrap yard” and “vehicle dismantling yard.”

KENNEL – Any premises on which three (3) or more (*dogs or cats*) domestic animals over (6) months old are housed, groomed, boarded, trained or sold for monetary gain.

LARGE GROUP – Any gathering of five hundred (500) or more people, occurring on a non-regular basis and involving either the charging of a fee, request for a donation or sale of products or services.

LOADING SPACE – Space logically and conveniently located exclusively for bulk pickups and deliveries at commercial structures.

LOT – A parcel of land occupied or designed to be occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open space as is required by this Zoning Law.

LOT COVERAGE – That percentage of the lot which is devoted to building area. District regulations refer to the maximum percentage of the lot area devoted to building area.

LOT LINE – Any line dividing one lot from another.

LOT SIZE – An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres.

LOT WIDTH – The horizontal distance between the side lot lines measured at right angles to its depth at the building line.

MOBILE DWELLING UNIT – See “dwelling unit” (same as “mobile home”).

MOBILE HOME PARK – A parcel of land upon which two (2) or more mobile homes are set up for living purposes.

MODULAR DWELLING UNIT – See “dwelling Unit.”

MOBILE FOOD VEHICLE – A food establishment that is located upon a vehicle, or which is pulled by a vehicle, where food or beverage is cooked, prepared and served for individual portion service.

MOTOR HOMES – A self-propelled, relatively small temporary living quarter generally used as mobile vacation homes. “Motor homes” generally have self-contained, independent utility systems.

MOTOR VEHICLE SERVICE STATION – Any area of land, including structures therein, that is used for the sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles, but not including the painting thereof by any means, body and fender work of the dismantling or replacing of engines.

MUNICIPALITY – The village or town for which this local law applies.

NOISE-RATING NUMBER – The criteria established in the noise-rating curves of the International Standards Organization.

NONCONFORMING USE – That use of a building, structure or land legally existing at the time of enactment of this Zoning Law or amendment thereto and which is not one of those permitted in the district in which it is situated.

NUISANCE – A violation of the local law caused by an offensive, annoying, unpleasant or obnoxious use of characteristics of said use which produces effects of such a nature or degree that they are detrimental to the health, safety, general welfare, property values, etc., thus resulting in harm or injury to adjacent or nearby properties. Common examples include excessive odors, noise, smoke, vibration, light, runoff, traffic, development density, electronic interference, etc.

NURSERY (FOR CHILDREN) – See “day-care center.”

NURSING HOME – Also referred to as a “convalescent home,” it includes building where, for a fee, nonambulatory residents are provided full-time convalescent or chronic care by skilled nurses in addition to room and board. No care for the acutely ill is provided, and thus, clearly, hospitals and mental health centers are not to be considered as a “nursing home.”

OCTAVE BAND – The range of sound frequencies divided into octaves in order to classify sound according to pitch.

**OFFICE** – A place which is used to conduct a business or profession and is occupied by a physician, surgeon, dentist, lawyer or person providing similar services or in whose office the functions of consulting, record keeping and clerical work are performed.

**OPERATOR** – Any person(s) engaged in providing cooking equipment, food or cooking services for a Commercial Barbecue. The Operator shall specifically include, but not be limited to, the owner of the premises at which the food is being prepared or sold.

**OPEN SPACE** – Common, public or private greens, parks or recreation areas, including playgrounds, woodland conservation areas, walkways, trails, stream crossings and drainage control areas, golf courses, swimming pools, tennis courts, ice-skating rinks and other similar recreational uses; but which may not include any such uses or activities which produce noise, glare, odor, air pollution, fire hazards or other safety hazards or smoke fumes; or any use or activity which is operated for a profit; or other things detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.

**PARKING SPACE** – A required off-street parking space.

**PERSON** – Any individual, firm, corporation, association, club, partnership, society or any other form of association or organization.

**PLANNING BOARD** - Refers to the Municipal Planning Board, unless otherwise indicated.

**PORCH** – A roofed open structure projecting from an outside wall of a structure without any form of enclosure.

**PREEXISTING USE** – Any use, either conforming or nonconforming with this local law, that is legally existing at the enactment date of this local law.

**PREFABRICATED DWELLING UNIT** – See “dwelling unit.”

**PRINCIPAL USE** – The main use of land or buildings as distinguished from a subordinate or accessory use.

**PROFESSIONAL** – Any person with an advanced college degree who possesses a license to practice. This includes, but is not limited to, doctors, lawyers, certified accountants, engineers, etc.

**PUBLIC** – Owned, operated or controlled by a governmental agency (federal, state or local), including a corporation created by law for the performance of certain specialized governmental functions, a public school district or service district.

**PUBLIC RIGHT-OF-WAY** – Any street, sidewalk or alley or similar place which is owned or controlled by the village, including not limited to walks, regardless of designation.

**PUBLIC SPACE** – Any real property or structure thereon which is owned, controlled or leased by the village.

**PURE TONE** – A sound having a single pitch.

**REAL PROPERTY BOUNDARY** – An imaginary line along the ground surface and its vertical extension, which separates the real property owned by one person from that owned by another person or from any public right-of-way or from any public space.

**RECREATIONAL VEHICLE** – A vehicle primarily designed as temporary living quarters for recreational, travel or camping use, which either has its own mode or power or is drawn by another vehicle.

RECREATION, COMMERCIAL – Recreational facilities operated as a business and open to the general public for a fee, including only those facilities which can confine noise, lights and other potential nuisances to their own premises. “Recreational facilities” shall include but not be limited to golf courses, ice-skating rinks and swimming pools.

RESIDENCE, MULTIFAMILY – A building used or designed for three (3) or more attached dwelling units, including apartment houses, townhouses and condominiums.

RESIDENCE, SINGLE-FAMILY DETACHED – A detached building designed to contain one (1) dwelling unit.

RESIDENCE, TWO-FAMILY – A duplex with the following characteristics:

- (1) A building having two (2) side yards and accommodating but two (2) dwelling units;  
or
- (2) A detached building containing two (2) dwelling units separated by a party wall, each having one (1) side yard.

RESIDENTIAL CONVERSIONS – The creation of one (1) or more additional dwelling units within an existing residential structure in accordance with conditions set forth in this local law.

REST HOME – Commonly referred to as a “home for the aged.” These facilities provide private sleeping rooms for ambulatory (able to walk) residents. Generally, “rest homes” have common eating areas and provide minimal medical aid to residents. Only incidental convalescent care is provided, which does not involve either trained nurses, physical therapy or other activities provided in a hospital or nursing home.

RETAIL BUSINESS, GENERAL – Whenever a “general retail business” is listed as an allowed use, it shall signify that any retail business which has a minimal negative impact and can meet the conditions specified in this local law shall be allowed in addition to the specific retail uses as being allowed.

ROADSIDE STAND – A structure (either enclosed or open), a booth or a transportable vehicle, the purpose of which is the sale of produce and other farm products to the general public. “Roadside stands” are located along a roadway in such a manner as to provide safe and convenient off-street parking. All conditions specified in this local law must be met.

SAWMILL – A commercial facility containing sawing and planing equipment utilized for the preparation of dimensional lumber used for construction. No on-premises sales to the general public take place.

SCRAP YARD – Any place of storage or deposit of more than one hundred (100) square feet, usually of a commercial nature, where metals, glass, rags, etc., are held, whether for the purpose of disposal, reclamation, recycling, or resale of such, including establishments having facilities for processing iron, steel and nonferrous scrap for re-melting purposes.

SECTION – Unless otherwise noted, section and section number shall refer to this local law.

SEMIPUBLIC – Places of worship, institutions for the aged and children, nurseries, nonprofit colleges, hospitals, libraries, cemeteries and institutions of the philanthropic nature; also, open space.

SERVICE BUSINESS, GENERAL – Whenever a “general service business” is listed as an allowed use, it shall signify that any service business which has a minimal negative impact and can meet the conditions specified in this local law shall be allowed, in addition to the specific service uses listed as being allowed.

SETBACK – The distance measured from the street edge to a structure, sign, etc.

SHOOTING RANGE, COMMERCIAL – The parcel(s) of land used for the discharging of firearms with the intent to hit any object (moving or stationary), other than live game, by any person who pays a fee, e.g., membership fees, shooting fee, etc., to use said facilities. “Commercial shooting ranges” include but are not limited to nonprofit clubs (skeet club, etc.) and profit motivated business.

SHOPPING CENTER – A group of commercial establishments occupying adjoining structures, all of which may be deemed as one (1) building, and normally owned/managed as one (1) unit. Off-street parking, as well as loading/unloading facilities, is provided as an integral part of the unit.

SHORT TERM RENTAL – A residential property that is rented to a visitor for less than 30 days.

SIGN – Any structure or part of thereof, attached thereto or painted or represented thereon, which shall display or include any letter, work, model, banner, flag, pennant, insignia or device of representation used for the purpose of bringing the subject thereof to the attention of the public. The word sign does not include the flag, pennant, or insignia of any nation, state, city or other political unit or of any political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like organization or the property thereof.

SIGN, ADVERTISING – A sign which offers services or goods produced or available somewhere other than on which the sign is located. The words “advertising sign” include the word “billboard.” Neither directional warning nor other signs posted by public officials in the course of their public duty shall be construed as “advertising signs.”

SIGN, AREA – The area defined by the frame or edge of a sign. Where there is no geometric frame or edge of the sign, the “area” shall be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely outlines said sign. Only one (1) side of the sign shall be used in measuring the area.

SIGN, BILLBOARD – Any sign with a total area larger than that permitted by sign regulations of this local law for the district in which the billboard either exists or is proposed to be located in.

SIGN, BUSINESS – A sign for permitted use conducted on the premises which shall identify the written name and/or the type of business and/or any trademark of an article for sale or rent on the premises or otherwise call attention to a use conducted on the premises.

SIGN, DIRECTIONAL – A sign which identifies an attraction or activity and provides directional information useful to the traveler in locating the attraction, such as mileage, route numbers, etc.

SIGN, HEIGHT – The distance from the average ground height to the highest point on the sign.

SIGN, IDENTIFICATION – A sign for a permitted use conducted on the premises for articles sold or distributed by that use or displaying the name of the premises.

SIGN, INSTRUCTIONAL – A sign conveying instructions with respect to the use of the premises, or a portion of the premises, on which it is maintained or a use or practice being conducted on the premises.

SIGN, NAMEPLATE – Any sign attached directly to the wall of a building occupied by the person to whom such a sign indicates the name, occupation and/or address of the occupant. A “nameplate” shall be not over two (2) square feet in size.

SIGN, PUBLIC – Those signs erected to direct flow, speed and direction of traffic, effect general public safety or name streets and buildings.

SIGN, TEMPORARY – A sign which offers premises for sale, rent or development; or announces special events or calls attention to new construction or alteration; or offers a sale of seasonal



garden produce, garage, household or porch items or signs of a similar nature; or political signs. Temporary status of signs will expire after six (6) months.

**SIGN, TEMPORARY BUSINESS** – A sign which is temporarily installed to advertise a permanent business, thus disallowing household sale signs, contractor signs, etc.

**SOLAR STRUCTURE** – Any structure containing either a passive or active heat storage device which is dependent on direct contact with the sun in order to operate. Said heat storage devices are commonly used to heat totally or partially water, rooms, etc.

**SOUND** – An oscillation in pressure, partial velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of the medium.

**SOUND-LEVEL METER** – An instrument, including a microphone, an amplifier, an output meter and frequency-weighting networks, used for the measurement of sound in a specified manner and calibrated in decibels.

**SOUND REPRODUCTION DEVICE** – Any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, electronic device, stereo, tape player, musical instrument, television, loudspeaker or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sound.

**SPECIAL USE PERMIT** – Deals with special permission, granted only by the permitting board after public hearing, to occupy land for specific purposes when such use is not permitted by right but is listed as permitted by special use permit.

**STORAGE UNITS** – Structures including, but not limited to, commercial transport trailers (with or without wheels attached), truck boxes, and container boxes. Storage units shall not include vans, station wagons, mobile homes, campers or unlicensed motor vehicles.

**STOREFRONT AREA** – That area of the front of a building associated with the first floor only. For businesses located above a first floor, the “storefront area” shall be calculated based on the ground floor entrance only.

**STORY** – That portion of a building, excluding attics and cellars, 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 any floor and the ceiling next above it.

**STORY, HALF** – A story under a gable, hip or gambrel roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such story.

**SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**SWIMMING POOL** – Any man-made receptacle for water (except farm ponds), located above or below ground, designed for capacity of any pool greater than 18” in depth at any point and intended to be used for swimming.

TEMPORARY DWELLING UNIT (MOBILE) – Dwellings intended for temporary occupancy, including but not limited to travel trailers, motor homes, truck campers and tents. Persons residing in “temporary dwelling units” generally do not include those residing in the primary dwelling unit located on the parcel.

TEMPORARY RETAIL OUTLET – Any retail business selling products from a nonpermanent structure, such as a truck, trailer, table or other similar unit. Additionally, the business is characterized by a small variety of types of products as well as by seasonal or infrequent appearances.

TEMPORARY USE – An activity conducted within a structure or on a tract of land for a specific limited period of time which may not otherwise be permitted by the provision of this local law; for example, a building used in conjunction with new construction which would be removed upon completion of the work.

TOWER – A structure generally fixed on the ground, of a noncommercial or commercial nature, the purpose of which is to better enable the transmission or receiving of signals by achieving more height. For the purposes of this local law, a “tower” shall generally be capable of being climbed without utilizing special equipment and shall not include television antennas unless they are over sixty (60) feet in height as measured from the base.

TOWNHOUSE – A dwelling unit designed to be occupied as a residence for one (1) family and one (1) of a group of three (3) or more attached dwellings, placed side by side, separated by party walls, each containing one (1) or two (2) stories, and each having separate front and rear, or side and rear, or front and side entrances from the outside.

TRACT – A large piece of land under single ownership.

TRASH – Glass, scrap, metals, salvaged metals, rags, refuse, garbage, wastepaper, salvaged machines, appliances or similar materials, etc.

TRAVEL TRAILER CAMP/COMMERCIAL CAMPGROUND – A parcel of land used or intended to be used, let or rented on a seasonal basis for occupancy by campers or for occupancy by or of travel trailers, motor homes, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

TRAVEL TRAILER/CAMPER – A relatively small temporary living quarter designed to be hauled behind a vehicle. “Travel trailers” are not designed as permanent living quarters and generally are used on a seasonal basis. They are supported at all times primarily by their own wheels. “Travel trailers” generally have self-contained, independent utility systems. See the definition of “accessory dwelling unit.”

TRIPLEX – A dwelling arranged, intended and designed to be occupied by three (3) families living independently of each other.

USE – Any purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE – Permissive waivers from the terms of the law, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the law will result in unnecessary hardship or practical difficulty or that the spirit of the law shall be observed and substantial justice done and granted by the Zoning Board of Appeals.

VEHICLE – Any land conveyance, self-propelled or propelled by an internal source.

VEHICLE DISMANTLING YARD – Any place or storage of deposit where two (2) or more unregistered, old or secondhand vehicles, no longer intended for or in condition for legal use on

public highways, are held, whether for resale of parts or materials, or used parts and waste materials which, when taken together, equal, in bulk, two (2) or more vehicles, shall constitute a “vehicle dismantling yard.” This excludes farm vehicles.

VEHICLE REPAIR SHOP – A commercial business operated for profit which repairs or services motor vehicles.

VILLAGE – Village of Lakewood.

WADING POOL – Any artificially constructed pool intended for use by children, not designed or used for swimming, with a maximum water depth of eighteen (18) inches and a maximum surface area of seventy-five (75) square feet.

WHOLESALE – A business establishment engaged in selling to retailers or jobbers rather than consumers in wholesale lots.

WHOLESALE BUSINESS, GENERAL – Whenever a “general wholesale business” is listed as an allowed use, it shall signify that any wholesale business which has a minimal negative impact and can meet the conditions specified in this law shall be allowed in addition to the specific wholesale uses listed as being allowed.

WHOLESALE, LIMITED – A wholesale business with a maximum of three (3) employees, no more than four thousand (4,000) square feet of floor space and no outside storage.

WITHIN THE COMMERCIAL AREA – Sound emanating from a source within the commercial area. Sound shall not be considered “within the commercial area” if it is projected into, heard or felt in a residential area, and such sound shall be considered to be within the residential area and governed by the rules relating thereto.

YARD, FRONT – The area extending across the entire width of the lot between the building line and the front edge of the road, into which space there shall be no extension of building partitions or accessory structures.

YARD, REAR – The area extending across the entire width of the lot between the rear wall of the principal building and rear line of the lot and unoccupied except for parking, loading and unloading space and garages and carports.

YARD, SIDE – That open area of a lot situated between the side lines of the building and the adjacent side lines of the lot.

ZONING BOARD OF APPEALS – The Zoning Board of Appeals of the municipality.

ZONING ENFORCEMENT OFFICER – The Code Enforcement Officer in this local law.

ZONING PERMIT – Written permission issued by the appropriate Municipal Board/Code Enforcement Officer authorizing the use of lots or structures. “Zoning Permits” are issued for uses which are permitted by the Zoning Law where all conditions required by the law can be met for the district where the lot/structure is located. The relocation, enlargement, alteration or other change of use shall require the issuing of a “zoning permit.” The two (2) types of permits include by right permit and special use permit.

- B. Flood insurance definitions which follow shall only apply to portions of this local law dealing with flood insurance. All other definitions shall apply to the non-flood insurance portions of this local law.

APPEAL – A request for a review of the local administrator’s interpretation of any provision of this local law or a request for a variance.

**AREA OF SHALLOW FLOODING** – A designated AO or VO Zone on a community’s Flood Insurance Rate Map (FIRM), with base flood depths from one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD** – The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the “base floodplain” or “one-hundred-year floodplain.”

**BASE FLOOD** – The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT** – That portion of a building having its floor sub-grade (below ground level) on all sides.

**BREAKAWAY WALL** – A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**BUILDING** – Any structure build for support, shelter or enclosure for occupancy or storage.

**CELLAR** – The same meaning as “basement.”

**COASTAL HIGH HAZARD AREA** – The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designed on a FIRM as Zone V1-30, VE, VO, or V.

**DEVELOPMENT** – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations, located within the area of special flood hazard.

**ELEVATED BUILDING** – A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or sheer walls.

**FLOOD BOUNDARY – FLOODWAY MAP (FBFM)** – An official map of the community published by the Federal Emergency Management Agency as part of a riverine community’s Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD or FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** – An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

**FLOOD INSURANCE RATE MAP (FIRM)** – An official map of a community on which the federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY** – The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary-Floodway Map and the water surface elevations of the base flood.

**FLOODPROOFING** – Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY** – The same meaning as “regulatory floodway.”

**FLOOR** – The top surface of an enclosed area in a building, including the basement, i.e., the top of the slab in concrete slab construction or the top of wood flooring in wood frame construction.

**FUNCTIONALLY DEPENDENT USE** – A use which cannot perform its intended unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

**HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**LOWEST FLOOR** – The level, including the basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement is not considered a building’s “lowest floor,” provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this local law.

**MANUFACTURED HOME** – A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property.

**MEAN SEA LEVEL** – For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

**MOBILE HOME** – The same meaning as “manufactured home.”

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)** – As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION** – A structure for which the start of construction commenced on or after the effective date of this local law.

**ONE-HUNDRED-YEAR FLOOD** – The same meaning as “base flood.”

**PRINCIPALLY ABOVE GROUND** – At least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground.

**REGULATORY FLOODWAY** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in §25-66B(2) of this local law.

**START OF CONSTRUCTION** – The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building

materials. For manufactured homes, the “actual start” means affixing of the manufactured home to its permanent site.

**STRUCTURE** – A walled and roofed building, a manufactured home or a gas-or liquid-storage tank that is principally above ground.

**SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local building, fire, health sanitary or safety code specifications, which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contribution structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**VARIANCE** – A grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

### **ARTICLE III Establishment of Districts**

#### **§ 25-7. Districts enumerated.**

For the purpose and provisions of this local law, the municipality is hereby divided into the following types of districts:

Single-Family Residential	R1
Multiple-Family Residential	R2
Mobile Residential	R3
Retail Business	B1
Highway Business	B2
Auto Sales	B2.1
Light Industrial	L1
Floodplain	FP

#### **§ 25-8. Zoning Map.**

The boundaries of the aforesaid zoning districts are hereby established as shown on the map entitled “Zoning District Map of the Village of Lakewood, New York, which map accompanies and is made a part of this local law and shall have the same force and effect as if the Zoning Map, together with all notations, references and other information shown thereon, were fully set forth and described herein.

#### **§ 25-9. Interpretation of boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

- C. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and, at such distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
- D. Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of jurisdiction of the municipality unless otherwise indicated.
- E. Any flood boundary shown on the Zoning Map indicates general location only. The precise location of floodplain boundaries shall be established by the Code Enforcement Officer after consulting with the Chautauqua County Planning Division.
- F. Any party aggrieved by an interpretation may appeal to the Zoning Board of Appeals, whose decision will be final. However, all decisions of the Zoning Board of Appeals are subject to court reviews in accordance with applicable laws of the State of New York. The burden of proof shall be on the appellant.

**ARTICLE IV  
District Regulations**

**§ 25-10. Single-Family Residential (R1) District.**

- A. Purpose. R1 Districts are established to primarily provide for new subdivision single-family development and to protect existing large lot neighborhoods from encroachment of incompatible uses.
- B. Uses by right (permit required) shall be as follows:
  - (1) Single-family dwelling, detached (conventional, prefabricated, modular).
  - (2) Duplex, attached.
  - (3) Household sale (garage sale) in accordance with §25-40.
  - (4) Public park.
  - (5) Launch ramp/dock/pier, public.
  - (6) Swimming pool, private, in accordance with §25-46.
  - (7) Garage, accessory.
  - (8) Customary accessory use.
  - (9) Accessory Structure in accordance with §25-47.
  - (10) Signs in accordance with §25-50.
  - (11) Open porch/deck.
  - (12) Fences/walls in accordance with §25-51.
  - (13) Short Term Rental
- C. Uses by special use permit (hearing required) shall be as follows:
  - (1) Accessory apartment
  - (2) Home occupation, general, in accordance with §25-38.
  - (3) School, public/private.
  - (4) Day-care center.
  - (5) Library/museum/gallery.
  - (6) Church/Rectory.
  - (7) Tennis court, private.
  - (8) Tennis court, public.
  - (9) Windmills, private, in accordance with §25-52.
  - (10) Signs in accordance with §25-50.
  - (11) Fences/walls in accordance with §25-51.

D. Uses requiring no permit (requires compliance with law) shall be as follows:

- (1) Horticulture, private.
- (2) Outdoor storage, recreational vehicle, in accordance with §25-62.
- (3) Parking, private, in accordance with §25-48.
- (4) Signs in accordance with §25-50.
- (5) Fences/walls in accordance with §25-51.
- (6) Accessory structure in accordance with § 25-47.

E. Area standards. See Article V, General Provisions, e.g., existing substandard lots, establishing front yards, etc., for exceptions to the following area standards:

	Detached Single-Family Units		Duplex	
	Primary	Accessory	Primary Use	Accessory Use
Minimum lot width (feet)	75	---		
Maximum lot cover (percent of lot area)	30%	---		
Minimum front yard (feet from right-of-way)	25	25		
Minimum side yard (feet) *	8	8		
Buildings over 150 sq. ft		8		
Minimum rear yard (feet)	25	8		
Buildings over 150 sq. ft		8		
Maximum Height (feet)	30	18		
Minimum floor space (square feet)	1,000	---		
Minimum Lot width (base, plus feet per unit)			80 + 8	---
Maximum lot coverage (percent of lot area)			30%	---
Minimum front yard (feet from right-of-way)			25	25
Minimum side yard * (base, plus feet per unit)			7 + 1	8
Minimum rear yard (feet)			25	8
Maximum structure height (feet)			30	18
Minimum floor space (square feet)			750	---

\* **Footnote:** Eight feet (8') for a gross vertical rise of sixteen feet (16') or less.  
An additional one half foot (1/2') set back for every additional foot in gross vertical rise.

**§ 25-11. Multiple-Family (R2) District.**

A. Purpose. R2 Districts are established to encourage most forms of residential development to include housing for the elderly. At the same time, older residential neighborhoods are protected



from incompatible use. Smaller lots and dwellings are allowable within this district. Certain limited businesses are allowed in this district.

B. Uses by right (permit required) shall be as follows:

- (1) Single-family dwelling, detached (conventional, prefabricated, modular).
- (2) Duplex, attached.
- (3) Household sale (garage sale) in accordance with § 25-40.
- (4) Public park.
- (5) Launch ramp/dock/pier, public
- (6) Swimming pool, private, in accordance with § 25-46.
- (7) Garage, accessory.
- (8) Customary accessory uses.
- (9) Accessory structure in accordance with § 25-47.
- (10) Signs in accordance with § 25-50.
- (11) Open porch/deck.
- (12) Fences/walls in accordance with § 25-51.
- (13) Short Term Rental

C. Uses by special use permit (hearing required) shall be as follows:

- (1) Boarding home/bed and breakfast.
- (2) Homes for the aged.
- (3) Nursing home/rest home.
- (4) Accessory apartment.
- (5) Residential conversions.
- (6) Multiple dwellings, attached, in accordance with § 25-35.
- (7) Professional/business office in accordance with § 25-39.
- (8) Realty office.
- (9) Home occupations, general, in accordance with § 25-38.
- (10) School, public/private.
- (11) Day-care center.
- (12) Library/museum/gallery.
- (13) Church/rectory.
- (14) Fraternal meeting facility.
- (15) Large group gathering.
- (16) Golf course, private/public.
- (17) Tennis court, private.
- (18) Tennis court, public.
- (19) Windmills, private, in accordance with § 25-52.
- (20) Signs in accordance with § 25-50.
- (21) Fences/walls in accordance with § 25-51.

D. Uses required no permit (requires compliance with law) shall be as follows:

- (1) Horticulture, private.
- (2) Outdoor storage, recreational vehicle, in accordance with § 25-62.
- (3) Parking, private, in accordance with § 25-48.
- (4) Signs in accordance with § 25-50.
- (5) Fences/walls in accordance with § 25-51.
- (6) Accessory structure in accordance with § 25-47.

E. Area standards. See Article V, General Provisions, e.g., existing substandard lots, established front yards, etc., for exceptions to the following area standards:

	<b>Detached Single-Family Units</b>		<b>Attached Multiple-Family Units</b>	
	<b>Primary Use</b>	<b>Accessory Use</b>	<b>Primary Use</b>	<b>Accessory Use</b>
Minimum lot width (feet)	75	---		
Maximum lot cover (percent of lot area)	40%	---		
Minimum front yard (feet from right-of-way)	25	25		
Minimum side yard * (feet)	7	8		
Minimum rear yard (feet)	20	4		
Maximum height (feet)	30	18		
Minimum floor space (square feet)	750	---		
			<b>80 + 8</b>	<b>---</b>
Minimum lot width (base, plus feet per unit)			40%	---
Maximum lot coverage (percent of lot area)			25	25
Minimum front yard (feet from right-of-way)			7 + 1	8
Minimum side yard * (base, plus feet per unit)			20	8
Minimum rear yard (feet)			30	18
Maximum structure height (feet)			750	---
Minimum floor space (square feet)				

\*Footnote: Eight feet (8') for a gross vertical rise of sixteen feet (16') or less.  
An additional one half foot (1/2') set back for every additional foot in gross vertical rise.

**§ 25-12. Mobile Residential (R3) District.**

- A. Purpose. R3 Districts are established to encourage most forms of residential development to include housing for the elderly and mobile home parks. At the same time, older residential neighborhoods are protected from incompatible uses. Smaller lots and dwellings are allowed in this district.
- B. Uses by right (permit required) shall be as follows:
  - (1) Single-family dwelling, detached (conventional, prefabricated, modular).
  - (2) Household sale (garage sale) in accordance with § 25-40.
  - (3) Public park.
  - (4) Swimming pool, private, in accordance with § 25-46.
  - (5) Garage, accessory.
  - (6) Customary accessory use.
  - (7) Accessory Structure in accordance with § 25-47.
  - (8) Signs in accordance with § 25-50.

- (9) Open porch/deck.
- (10) Fences/walls in accordance with § 25-51.

C. Uses by special use permit (hearing required) shall be as follows:

- (1) Boarding homes/bed and breakfast.
- (2) Homes for the aged.
- (3) Nursing home/rest home.
- (4) Accessory apartment.
- (5) Duplex, attached.
- (6) Multiple dwellings, attached, in accordance with § 25-35.
- (7) Mobile home parks in accordance with § 25-60.
- (8) Nursery/greenhouse, commercial.
- (9) Professional/business office in accordance with § 25-39.
- (10) Realty office.
- (11) Home occupation, general, in accordance with § 25-38.
- (12) Utilities (quasi-public), e.g., telephone.
- (13) School, public/private.
- (14) Day-care center.
- (15) Library/museum gallery.
- (16) Church/rectory.
- (17) Fraternal meeting facility.
- (18) Large group gathering.
- (19) Golf course, private/public.
- (20) Tennis court, private.
- (21) Tennis court, public.
- (22) Travel trailer park, commercial.
- (23) Windmills, private, in accordance with § 25-52.
- (24) Signs in accordance with § 25-50.
- (25) Fences/walls in accordance with § 25-51.

D. Uses requiring no permit (requires compliance with law) shall be as follows:

- (1) Horticulture, private.
- (2) Outdoor storage, recreational vehicle, in accordance with § 25-62.
- (3) Parking, private, in accordance with § 25-48.
- (4) Signs in accordance with § 25-50.
- (5) Fences/walls in accordance with § 25-51.
- (6) Accessory structure in accordance with § 25-47.

E. Area standards. See Article V, General Provisions, e.g., existing substandard lots, established front yards, etc., for exceptions to the following area standard:

	<b>Detached Single-Family Units</b>	
	<b>Primary Use</b>	<b>Accessory Use</b>
Minimum lot width (feet)	75	---
Maximum lot cover (percent of lot area)	40%	---
Minimum front yard (feet from right-of-way)	25	25
Minimum side yard (feet)	7	8

Minimum rear yard (feet)	20	8
Maximum height (feet)	30	18
Minimum floor space (square feet)	750	---

**§ 25-13. Retail Business (B1) District.**

A. Purpose. The B1 District was established to protect and foster the existing retail commercial center and enable it to better meet the needs of both residents and visitors. It should promote intensive pedestrian-oriented businesses as opposed to vehicle-oriented businesses.

B. Uses by right (permit required) shall be as follows:

- (1) Animal grooming business.
- (2) Antique store.
- (3) Apparel and accessory store.
- (4) Art Gallery.
- (5) Bakery shop.
- (6) Bank.
- (7) Barber and beauty shops.
- (8) Bookstore.
- (9) Candy store.
- (10) Credit / financial agency.
- (11) Florist.
- (12) Gift shop.
- (13) Home furnishing and appliance store.
- (14) Library or museum.
- (15) Locksmith shop.
- (16) Municipal office.
- (17) Newsstand.
- (18) Pharmacy.
- (19) Photography studio.
- (20) Professional offices (25-39).
- (21) Public park.
- (22) Restaurant.
- (23) Realty office.
- (24) Tailoring or shoe repair.
- (25) Convenient food store.

C. Uses by special use permit (hearing required) shall be as follows:

- (1) Apartment.
- (2) Bar, tavern or liquor store.
- (3) Bulk dry cleaning and self-serve laundry.
- (4) Catering services.
- (5) Church.
- (6) Club of fraternal organization.
- (7) Parking lot (25-48).
- (8) Drive-in business not financial.
- (9) Game room, recreational amusement.
- (10) Hardware glass or paint store.
- (11) Home occupation.
- (12) Indoor entertainment facility.

- (13) Nursery / greenhouse, commercial.
- (14) Plumbing / heating shop.
- (15) Printing shop.
- (16) Radio or television broadcast.
- (17) School, public or private.
- (18) Single family detached dwelling.
- (19) Two dwelling structure, duplex.
- (20) Three dwelling structure, triplex.
- (21) Rental dwelling less than 30 days or Bed and Breakfast Inns.
- (22) Farmers Market or roadside stand.
- (23) Temporary retail outlet (25-41).
- (24) Theaters or performing arts center.
- (25) Transportation terminal.
- (26) Utilities, public or quasi-public.
- (27) Other retail / wholesale establishments.

All other uses not stated in the lists by right or permits are prohibited. However those nonconforming uses in place at the time of the passage of these codes shall be grand fathered for the current owners, unless there is a one year lapse in the operation or there is 50% change to the existing structure. Compliance to all other codes must be maintained.

D. Uses requiring no permit (requires compliance with law) shall be as follows:

- (1) Horticulture, private.
- (2) Parking, private, in accordance with § 25-48.
- (3) Signs in accordance with § 25-50.
- (4) Fences/walls in accordance with § 25-51.
- (5) Accessory structure in accordance with § 25-47.

E. Area standards. See Article V, General Provisions, e.g., existing substandard lots, established front yards, etc., for exceptions to the following area standards:

	<b>Detached Single-Family Units</b>		<b>Nonresidential Uses</b>	
	<b>Primary Use</b>	<b>Accessory Use</b>	<b>Primary Use</b>	<b>Accessory Use</b>
Minimum lot width (feet)	75	---	---	---
Maximum lot cover (percent of lot area)	40%	---	---	---
Minimum front yard (feet from right-of-way)	20	20	10*	20*
Minimum side yard (feet)	7	4	0	0
Minimum rear yard (feet)	20	4	10	---
Maximum height (feet)	30	18	---	---
Minimum floor space (square feet)	750	---	---	---

**NOTE:** Amended January 2010.

\* Minimum front yard shall be to the near edge of the sidewalk, which is set back approximately ten (10) feet from the road edge.

#### **Attached Multiple-Family Units**

	<b>Primary Use</b>	<b>Accessory Use</b>
Minimum lot width (base, plus feet per unit)	80 + 8	---
Maximum lot coverage (percent of lot area)	40%	---
Minimum front yard (feet from right-of-way)	25	25
Minimum side yard (base, plus feet per unit)	7 + 1	4
Minimum rear yard (feet)	20	4
Maximum structure height (feet)	30	18
Minimum floor space (square feet)	750	---

- F. Signs: All requirements for signs are as found under (25-50) plus color, style, and materials must comply with those recommended for the B-1, Chautauqua Avenue District and a permit is required. Let it be known “less is more” or smaller size and simplicity should apply to all aspects of the sign. Recommendations are available at the Village Clerk’s office.
- G. Outdoor Cooking & Sale of Food: The purpose of this chapter is to regulate the commercial outdoor cooking of food for sale to the general public for takeout or on-premises consumption within the B-1 Business District of the Village of Lakewood. These regulations are intended to achieve the following purposes:
- a. To balance the rights of the public at large, landowners and other various interest groups;
  - b. To secure the safety of pedestrians and others from the dangers of such outdoor cooking;
  - c. To prevent the overcrowding and undue concentration of people;
  - d. To maintain the appearance and character of the B-1 Business District so as to promote the businesses located therein and the use thereof by the general public;
  - e. To protect the property values and individual investment by encouraging development and use appropriate to the B-1 Business District;
  - f. To protect the aesthetic nature of the property.
- H. Permit Required: No operator, person or entity shall engage in, manage, sponsor or conduct a Commercial Barbecue as defined in this chapter within the B-1 Business District of the Village unless a permit for the conduct of such Commercial Barbecue as herein provided shall have been obtained and shall be in force.
- a. An application for a Commercial Barbecue permit shall be made to the Building Inspector/Code Enforcement Officer upon forms to be provided by the Building Inspector/Code Enforcement Officer. The applicant shall pay to the Village, at the time of filing, a permit application fee in the amount as set from time to time by resolution of the Village Board of Trustees, to defray the cost of inspection by the Health Inspector.
  - b. The permit shall be effective for a maximum of 3 days only, and only for the dates and location stated in the permit.
  - c. The permit shall require that the Barbecue Device and any and all items utilized in the Commercial Barbecue be removed from the premises within 24 hours of the conclusion of the Commercial Barbecue.
  - d. The application shall set forth the following:
    - (1) The name and address of the sponsor of the Commercial Barbecue.

- (2) The name and address of the Operator, if any, providing food, cooking and equipment, and the name and address of the owner of the premises at which the food will be prepared and sold.
- (3) The place where and the time when the Commercial Barbecue will be conducted.
- (4) The name of the person on site in charge of the Commercial Barbecue.
- (5) The kind of food to be sold during such Commercial Barbecue.
- (6) Where the food and Barbecue Device may be inspected by the Health Inspector during regular business hours.

I. Issuance of Permit: contents.

- a. Upon the filing of such application and the payment of the fee thereof, the Building Inspector/Code Enforcement Officer may approve the issuance of such permit to the applicant to conduct a Commercial Barbecue in accordance with the terms of the permit.
- b. Such permit shall state:
  - (1) The name of the person to whom it is granted.
  - (2) The place, date and time during which such Commercial Barbecue may be conducted.
  - (3) The kind of food in which such person may deal.
- c. The building Inspector/Code Enforcement Officer shall provide notice to the Village Board of Trustees of all permits that have been granted in the preceding month.
- d. The permit shall not be transferable.
- e. A permit to conduct a Commercial Barbecue may be denied by the Building Inspector/Code Enforcement Officer, if for any reason, in the opinion of the Building Inspector/Code Enforcement Officer, the conduct of such Commercial Barbecue is deemed detrimental to the best interest of the general public.

J. Inspections: Upon issuance of a permit the Building Inspector/Code Enforcement Officer may request the Health Inspector to inspect the food and Barbecue Device to determine whether the Commercial Barbecue shall comply with all applicable laws, regulations and ordinances.

K. Minimum area requirements: Any premises on which a Commercial Barbecue is proposed shall have a front yard depth of 20 feet, measured as the distance between the street right-of-way and any part of the Barbecue Device. In addition thereto, the premises shall have a minimum side yard depth of 8 feet and a rear yard depth of 20 feet.

L. Signs: No more than one sign having up to 50 feet in square footage or no more than two signs, neither sign exceeding 25 feet in square footage, may be erected on the dates permitted for conducting the Commercial Barbecue.

M. Limitation on number of permits: No permit shall be approved for more than three Commercial Barbecues for the same premises within the Village during any one calendar year.

N. Penalties for Offenses: Any person failing to comply with any of the provisions of this chapter shall, upon conviction, be punished by a fine of not more than \$250 or imprisonment not exceeding 15 days, or by both such fine imprisonment.

**§ 25-14. Highway Business (B2) District.**

A. Purpose. The purpose of the B2 District is to promote retail and service uses which are vehicle-oriented for the use of residents and visitors. At the same time, a major goal is to protect and enhance the community by encouraging aesthetically appealing businesses with safe ingress and egress and prohibiting chaotic strip development.

B. Uses by right (permit required) shall be as follows:

- (1) Duplex, attached.
- (2) Nursery/greenhouse, commercial.
- (3) Roadside stand, general.
- (4) Household sale (garage sale) in accordance with § 25-40.
- (5) Temporary retail outlet in accordance with § 25-41.
- (6) Antique shop.
- (7) Bakery shop.
- (8) Catalog store.
- (9) Drugstore.
- (10) Florist shop.
- (11) Food supermarket.
- (12) Corner grocery store.
- (13) Gift shop.
- (14) Monument sales.
- (15) Newsstand.
- (16) Liquor store.
- (17) Building materials store.
- (18) Department/variety store.
- (19) Feed and seed shop.
- (20) Furniture/appliance store.
- (21) Hardware/glass/paint store.
- (22) Pet store.
- (23) Plumbing/heating shop.
- (24) Rental store.
- (25) Professional/business office.
- (26) Bank.
- (27) Photography studio.
- (28) Realty office.
- (29) Laundry and dry-cleaning shop.
- (30) Barber/beauty shop.
- (31) Restaurant.
- (32) Drive-in business in accordance with § 25-42.
- (33) Locksmith shop.
- (34) Appliance repair shop.
- (35) Car wash.
- (36) Boat storage.
- (37) Printing shop.
- (38) Wholesale business, warehouse.
- (39) Home occupation, general, in accordance with § 25-38.
- (40) Municipal office.
- (41) Day care center.
- (42) Library/museum/gallery.
- (43) Public park.
- (44) Launch ramp/dock/pier, public.
- (45) Swimming pool, private, in accordance with § 25-46.
- (46) Carnival/circus, temporary.
- (47) Bowling alley.
- (48) Windmills, private, in accordance with § 25-52.
- (49) Garage, accessory.
- (50) Customary accessory use.
- (51) Parking lot, commercial in accordance with § 25-48.
- (52) Accessory structure in accordance with § 25-47.
- (53) Signs in accordance with § 25-50.
- (54) Open porch/deck.



- (55) Load/unload facility in accordance with § 25-49.
- (56) Fences/walls in accordance with § 25-51.

C. Uses by special use permit (hearing required) shall be as follows:

- (1) Single –family dwelling, detached (conventional, prefabricated, modular).
- (2) Boarding homes/bed and breakfast.
- (3) Homes for the aged.
- (4) Nursing home/rest home.
- (5) Accessory apartment.
- (6) Multiple dwelling, attached in accordance with § 25-35.
- (7) Shopping center/mall.
- (8) Mobile home/trailer sales.
- (9) Vehicle service station in accordance with § 25-45.
- (10) Auto sales/used car lot in accordance with § 25-44.
- (11) Farm machinery/implements store.
- (12) Funeral home.
- (13) Truck terminal.
- (14) Bar.
- (15) Hotel/motel.
- (16) Auto body repair shop in accordance with § 25-43.
- (17) Vehicle repair shop in accordance with § 25-43.
- (18) Building contractor business.
- (19) Custom workshop.
- (20) Kennel business.
- (21) Animal shelter.
- (22) Animal hospital.
- (23) Storage of materials/fuel, warehouse.
- (24) Utilities (public), e.g., water.
- (25) Utilities (quasi-public), e.g., telephone.
- (26) School, public/private.
- (27) Church/rectory.
- (28) Fraternal meeting facility.
- (29) Large group gathering.
- (30) Hospital.
- (31) Golf course, private/public.
- (32) Tennis court, private.
- (33) Tennis court, public.
- (34) Commercial recreation.
- (35) Swimming pool, public.
- (36) Marinas/tackle shop.
- (37) Drive-in movie.
- (38) Theater.
- (39) Electronic game room.
- (40) Signs in accordance with § 25-50.
- (41) Fences/walls in accordance with § 25-51.
- (42) Communications tower.
- (43) Adult Stores

D. Uses requiring no permit (requires compliance with law) shall be as follows:

- (1) Horticulture, private.
- (2) Outdoor storage of recreational vehicle, in accordance with § 25-62.
- (3) Parking, private, in accordance with § 25-48.
- (4) Signs in accordance with § 25-50.

- (5) Fences/walls in accordance with § 25-51.
- (6) Accessory structure in accordance with § 25-47.

E. Area standards. See Article V, General Provisions, e.g., existing substandard lots, established front yards, etc., for exceptions to the following area standards:

	<b>Detached Single-Family Units</b>		<b>Nonresidential Uses</b>	
	<b>Primary Use</b>	<b>Accessory Use</b>	<b>Primary Use</b>	<b>Accessory Use</b>
Minimum lot width (feet)	75	---	---	---
Maximum lot cover (percent of lot area)	40%	---	50%	---
Minimum front yard (feet from right-of-way)	20	20	20	20
Minimum side yard (feet)	7	4	10	10
Minimum rear yard (feet)	20	4	60	60
Maximum height (feet)	30	18	---	---
Minimum floor space (square feet)	750	---	---	---

**§ 25-15. Light Industrial (I1) District.**

A. Purpose. The purpose of the I1 District is to provide space for new and expanding nonnoxious industry in such a way as to protect nearby residential uses.

B. Uses by right (permit required) shall be as follows:

- (1) Roadside stand, general.
- (2) Blacksmith shop.
- (3) Fruit processing plant.
- (4) Household sale (garage sale) in accordance with § 25-40.
- (5) Wholesale business, warehouse.
- (6) Home occupation, general, in accordance with § 25-38.
- (7) Municipal office.
- (8) Library/museum/gallery.
- (9) Public park.
- (10) Swimming pool, private, in accordance with § 25-46.
- (11) Carnival/circus, temporary.
- (12) Bowling alley.
- (13) Windmills, private, in accordance with § 25-52.
- (14) Garage, accessory.
- (15) Customary accessory use.
- (16) Parking lot, commercial, in accordance with § 25-48.
- (17) Accessory structure in accordance with § 25-47.
- (18) Signs in accordance with § 25-50.
- (19) Open porch/deck.
- (20) Load/unload facility in accordance with § 25-49.
- (21) Fences/walls in accordance with § 25-51.

C. Uses by special use permit (hearing required) shall be as follows:

- (1) Single-family dwelling, detached (conventional, prefabricated, modular).
- (2) Homes for the aged.
- (3) Nursing home/rest home.
- (4) Accessory apartment.
- (5) Duplex attached.
- (6) Multiple dwelling, attached, in accordance with § 25-35.
- (7) Nursery/greenhouse, commercial.
- (8) Antique shop.
- (9) Bakery shop.
- (10) Catalog store.
- (11) Drugstore.
- (12) Shopping center/mall.
- (13) Florist shop.
- (14) Food supermarket.
- (15) Corner grocery store.
- (16) Gift shop.
- (17) Monument sales.
- (18) Newsstand.
- (19) Liquor store.
- (20) Building materials store.
- (21) Farm machinery/implements store.
- (22) Department/variety store.
- (23) Feed and seed shop.
- (24) Furniture/appliance store.
- (25) Hardware/glass/paint store.
- (26) Pet store.
- (27) Plumbing/heating shop.
- (28) Rental store.
- (29) Professional/business office in accordance with § 25-39.
- (30) Storage of materials/fuel, warehouse.
- (31) General heavy industry.
- (32) Utilities (public), e.g., water.
- (33) Utilities (quasi-public), e.g., telephone.
- (34) School, public/private.
- (35) Day-care center.
- (36) Church/rectory.
- (37) Fraternal meeting facility.
- (38) Large group gathering.
- (39) Hospital.
- (40) Golf course, private/public.
- (41) Tennis court, private.
- (42) Tennis court, public.
- (43) Commercial recreation.
- (44) Swimming pool, public.
- (45) Signs in accordance with § 25-50.
- (46) Fences/walls in accordance with § 25-51.
- (47) Communications tower.

D. Uses requiring no permit (requires compliance with law) shall be as follows:

- (1) Horticulture, private.
- (2) Outdoor storage **of** recreational vehicle, in accordance with § 25-62.
- (3) Parking, private, in accordance with § 25-48.
- (4) Signs in accordance with § 25-51.

- (5) Fences/walls in accordance with § 25-51.
- (6) Accessory structure in accordance with § 25-47.

E. Area standards. See Article V, General Provisions, e.g., existing substandard lots, established front yard, etc., for exceptions to the following area standards:

	<b>Nonresidential Uses</b>	
	<b>Primary Use</b>	<b>Accessory Use</b>
Minimum lot width (feet)	---	---
Maximum lot cover (percent of lot area)	50%	---
Minimum front yard (feet from right-of-way)	50	50
Minimum side yard (feet)	10	10
Minimum rear yard (feet)	20	20
Maximum height (feet)	---	---
Minimum floor space (square feet)	---	---

**§ 25-16. Floodplain (FP) District.**

A. Purpose. Flood districts overlap other zoning districts, and thus the regulations which apply to floodplain areas supplement the regulations of the zoning district, e.g., residential, agricultural, etc., for which the land is located. It is the purpose of the flood damage regulations to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion, or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- (4) Control filling, grading, dredging and other development which may increase erosion or flood damages.
- (5) Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (6) Qualify for and maintain participation in the National Flood Insurance Program.

B. The objectives of the Flood Insurance Program are to:

- (1) Protect human life and health.
- (2) Minimize expenditure of public money for costly flood control projects.
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) Minimum prolonged business interruptions.
- (5) Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges, located in area of special flood hazard.
- (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard.
  - (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- C. Flood district boundary. The flood damage regulations which follow apply to the areas of special flood hazard identified by the Federal Insurance Administration on its Flood Insurance Rate Map (FIRM), dated November 2, 1977, and any revisions thereto and are adopted by reference and declared to be a part of this local law. The FIRM is on file at the municipal offices.
- D. Provisions for flood hazard reductions. The following standards shall apply to special flood hazard areas:
- (1) Anchoring.
    - (a) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.
    - (b) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two (2) feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (2) Construction materials and methods.
    - (a) All new construction and substantial improvements shall be constructed with material and utility equipment resistant to flood damage.
    - (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (3) Utilities.
    - (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
    - (b) New and replacement sanitary sewerage systems will be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
    - (c) On-site waste disposal systems shall be located to avoid impairment to them or contaminate from them during flooding.
    - (d) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
  - (4) Subdivision proposals.
    - (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
    - (b) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
    - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.

(5) Encroachments.

- (a) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazard set forth in § 25-66B(2), Permit application review. This may require the submission of additional technical data to assist in the determination.
- (b) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 25-66B(2) or § 25-16D(4) and no floodway has been determined, the cumulative effects of any proposed development when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (c) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 25-66B(2), the requirements of § 25-16D(7), Floodways, shall apply.

(6) Specific standards. In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 25-16C, Flood district boundary, and § 25-66B(2), Use of other base flood district boundary, and § 25-66B(2), Use of other base flood and floodway data, the following standards are required:

- (a) Residential construction (base flood elevations available). New construction and substantial improvements of any residential structure shall:
  - [1] Have the lowest floor, including the basement or cellar, elevated to or above the base flood elevation.
  - [2] Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
    - [a] There shall be a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooring.
    - [b] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
    - [c] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

- (b) Nonresidential construction (base flood elevations available). New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utilities and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be flood proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- [1] If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for

the entry  
flood forces on  
certified by a  
following criteria:

and exit of floodwaters for the purpose of equalizing hydrostatic exterior walls. Designs for meeting this requirement must either be licensed professional engineer or a licensed architect or meet the

- [a] There shall be a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
- [b] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [c] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

[2] If the structure is to be flood-proofed:

with  
walls  
hydrodynamic  
is

- [a] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance accepted standards of practice to make the structure watertight with substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and loads and effects of buoyancy.
- [b] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure flood-proofed.

(c) Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or two (2) feet above the highest adjacent grade where no elevation data is available.

[1] New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including the basement, elevated at least two (2) feet above the highest adjacent grade next to the proposed foundation of the structure.

[2] Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

- [a] There shall be a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
- [b] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade.
- [c] Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

(7) Floodways. Located within areas of special flood hazard are areas designated as floodways. (see definition). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 25-16C and § 25-66B(2), all

encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

## **ARTICLE V General Provisions**

### **§ 25-17. Access to Public Streets.**

Except as otherwise provided for in this local law, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street unless a permanent public easement of access to a public street was of record prior to the adoption of this local law. However, this shall not preclude the creation of a private road on a fifty-foot right-of-way which connects to a public road and serves one (1) or more subdivided lots. Upon request from a developer, landowner(s), etc., the Municipal Board shall consider the takeover of a private roadway but only after assurances are received by all involved parties that the roadway will be constructed to standards specified by the municipality. The municipality is in no way obligated to take over any road even if it meets specified road construction standards.

### **§ 25-18. Contiguous parcels of land.**

When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one (1) ownership, they shall be used as one (1) lot for such use.

### **§ 25-19. Existing substandard sized lots.**

The minimum area requirements specified for each type of allowed use shall not prevent the construction of an allowable use on a substandard sized lot which existed and was officially recorded at the time of enactment of this Zoning Law if the following conditions are met:

- A. The substandard lot is not less than seventy-five percent (75%) of all of the applicable area standards (lot size and lot width).
- B. At the time of enactment of this local law, the substandard lot was not contiguous with another lot in the same ownership. (See section on contiguous parcels found in Article V.)
- C. If Subsection A cannot be met, then the applicant can request an area variance from the Zoning Board of Appeals. (See variance section.)

### **§ 25-20. Corner lots.**

Both street sides of a corner lot shall be treated as front yards in the application of bulk and area requirements and parking.

### **§ 25-21. Height.**

- A. Height exception. The height limitation of this local law shall not apply to television antennas, church spires, belfries, cupolas, penthouses and domes not used for human occupancy; nor to chimneys, ventilators, skylights, windmills, water tanks, bulkheads, similar features and necessary mechanical appurtenances usually carried above the roof level. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are to serve.
- B. Ornamental features. The provisions of this local law shall not apply to prevent the erection above the building height limit of parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five (5) feet.

### **§ 25-22. Visibility at intersections.**



For the purpose of maintaining sight lines and promoting traffic safety on a corner lot in any district, no fence, wall, hedge or other structure or planting more than three (3) feet in height shall be erected or placed within the triangular areas formed by the intersecting street edge lines and the imaginary straight line down between the points twenty-five (25) feet from the intersection street edge lines along the street edge lines.

**§ 25-23. Interpretation of permitted uses.**

When a use is not specifically listed as a use by right or a use by special use permit within any zoning district, it shall be assumed to be a prohibited use unless it is determined in a written decision by the Board of Appeals that said use is similar to permitted uses, meets the intent specified in the zoning districts and is not inherently a nuisance, menace or danger to the health, safety or welfare of the residents of the municipality.

**§ 25-24. Excavation.**

During the construction of a foundation, general landscaping or any other extensive excavating project, a person, firm, corporation, etc., shall not strip, excavate or otherwise remove soil/gravel unless the following conditions are met:

- A. Topsoil, within one (1) year from the day the permit is issued, topsoil shall be replenished or left with sufficient amounts to support future development needs.
- B. Groundwater runoff. Runoff will not be caused to flow into neighboring properties, to pool or cause erosion.

**§ 25-25. Preservation of yards, courts and open space.**

- A. Preservation of yards, courts and open space. Rear yards, courts and other open space shall be kept undeveloped in order to meet setback and coverage requirements of this local law, except as specified in Subsection B below. The area directly in front of the building shall be 100 percent green space except for side walks and sign foundations.
- B. Permitted obstructions. The following shall not be considered to be obstruction when located in the preserved yards, courts and open space:
  - (1) Open terraces, patios, open porches, awnings and canopies, chimneys, trellises, flagpoles, open fire escapes, decks, balconies and other similar uses which do not extend more than forty percent (40%) of the required setback nor come closer to a lot boundary line by more than forty percent (40%) of the required setback: and
  - (2) Bay windows, steps, chimneys, overhanging eaves and gutters and other similar uses shall not extend more than three (3) feet from the principal structure nor come within two (2) feet of any property lines.
- C. Lawns & Plantings: All lawns on developed property will be kept at 6” or less. Violator will be given 10 days to remedy. Failure to remedy will cause the village to remedy violation and charge property owner.
- D. Location. All yards, courts and open space shall be located on the same lot as the structure for which the setback and area requirements are required.
- E. Landscaping: Shall include a minimum maintained green space of 10% commercial and 30% residential. Landscaping plans shall be submitted with the site plan for approval by the Code Enforcement Officer and Planning Board (sites over 5,000 sq. ft. gross area).

**§ 25-26. Nurseries and Fruit Stands.**

- A. Purpose. Nurseries and fruit stands shall be constructed to promote traffic safety and be visually

attractive.

- B. All Structures including temporary plastic covered buildings shall meet area setback requirements.
- C. All material storage shall be in the back of the property in an enclosed area.

**§ 25-27. Number of residential dwellings on lots; division of lots.**

- A. Number of residential dwellings on a lot. No more than one (1) principal detached residential dwelling shall be constructed on a parcel. No zoning permit shall be issued for a detached residential unit until the Code Enforcement Officer has proof that the parcel is officially recorded on the county tax maps.
- B. Division of lots. No lot improved with a building or buildings shall hereafter be divided into two (2) or more zoning lots and no portion of any zoning lot which is improved with a building or buildings shall be sold, unless all zoning lots resulting from each such division or sale and improved with a building or buildings shall not be less conforming to all the bulk regulations of the zoning district in which the property is located. However, any portion of a parcel may be removed if the original parcel continues to conform to the area regulations.

**§ 25-28. Lots in two districts.**

Where a district boundary divides a parcel at the time of enactment of this local law, the regulations for the district which contains most of the land area of the parcel shall apply to all of the parcel.

**§ 25-29. Driveways within right-of-way.**

When property to be developed fronts on a highway and access to the highway is desired, an approved permit from the applicable agency for the development of such highway access shall be presented. The Highway/Street superintendent may require the installation of an appropriately sized sluice pipe where it is likely that drainage problems exist or may be created by the presence of a driveway on a public right-of-way.

**§ 25-30. Transition between districts.**

- A. Purpose. To purpose of this section is to promote harmonious use of land located at district boundaries.
- B. Conditions. Where the permitting board determined that there is a need to protect a residential neighborhood located in a residential district from a permitted use in an adjacent district, the Board may:
  - (1) Require an artificial or natural buffer, such as a hedge, fence, wall, etc., which shields the residential units from the business use;
  - (2) Require a doubling of the appropriate side and/or rear yard setback requirements to protect the neighborhood;
  - (3) Control the positioning of signs, lights, parking, mechanical equipment and any other features so as to reduce the potential nuisance; or
  - (4) Impose other appropriate requirements.
- C. Preexisting uses. This section shall only apply to new construction to include additions and enlargements.

**§ 25-31. Disputed lot lines.**

- A. Purpose. It is the intent of this section to clarify the procedures to be followed in verifying where lot lines are in order to ensure that area requirements (side yards, etc.) are met.

- B. Procedures. When the Code Enforcement Officer is in doubt as to the location of lot lines and it is apparent that new development may not be in accordance with area requirements, the Code Enforcement Officer shall withhold the granting of the Zoning Permit until one (1) of the following occurs:
- (1) The applicant provides proof, such as a survey accomplished by a licensed surveyor.
  - (2) The matter is referred to the Zoning Board of Appeals for an interpretation of documentation provided by the applicant.
  - (3) A zoning permit is granted after the applicant receives an area variance from the Zoning Board of Appeals.

**§ 25-32. Business entrances on residential streets.**

- A. Purpose. To preserve the residential character of neighborhoods which abut business districts, the regulations which follow shall apply to all businesses which are adjacent to a residential district and have both access to a primary business street and primary residential street.
- B. Regulations.
- (1) Store entrance. Business structures erected in the business district shall not face and open onto the street which is primarily in the residential district.
  - (2) Display windows. Primary display windows shall front on the primary business street and not the primary residential street.
  - (3) Signs. Business signs shall be oriented toward the primary business street.
  - (4) Lighting. All lighting fixtures associated with the business shall be oriented away from the residential district.

**ARTICLE VI  
Supplemental Regulations**

**§ 25-33. Development conditions.**

- A. Purposes. Development conditions shall be attached to permits or variances when necessary or advisable to reduce or eliminate conflicts between uses or to protect the health, safety and general welfare.
- B. Areas of concern. The following checklist shall be considered by the appropriate boards and administrators in their reviews of request for zoning permits, special use permits and variances. The checklist is not intended to be all inclusive and does not limit the areas of concern over which conditions may be imposed:
- (1) Traffic: safety of ingress/egress from roadway, intersection visibility, level of anticipated new traffic generation in relation to existing road capacity and traffic, adequacy of off-street parking and loading, pedestrian safety and/ or location of structures in relation to all of the above.
  - (2) Business entrances: All business uses shall face, have entrances and display goods such that they are oriented, to the greatest degree possible, toward business districts and not toward adjacent residential districts.
  - (3) Safety: trash disposal, steep slopes, open pits, toxic and/or flammable fluids.
  - (4) Health: sewers/water, sunlight, air movement, junk vehicles and/or trash storage.
  - (5) Character of neighborhood: development density, traffic volume, lot sizes, compatible uses and/or buffers.
  - (6) Public costs: road damage, need for new roads and/or need for new utilities.
  - (7) Environmental protection: floodplains, wetlands and/or natural features.
  - (8) Nuisances: noise, odor, dust, lights, hours of operation, lot size, buffers and/or nuisance location.

- (9) Land use preservation: agriculture and/or open space.
  - (10) Aesthetics: restoration, appearance, scenic views and/or buffers.
- C. Failure to comply. Applicants who have received variances or special use permits with conditions attached shall be responsible for continual compliance with the specified conditions. Noncompliance with any conditions shall result in revocation of the variance/special use permit, and continuance of the use shall only be allowed after reapplication for the variance/special use permit.
- D. No storage on Public Right of Ways without permission from the Municipal Board.

**§ 25-34. Multiple dwellings.**

- A. Purpose. Attached multiple dwellings, in districts where allowed, shall be subject to special use permits, and, where five (5) or more units are proposed, site plan review requirements shall also apply. Each development proposal shall be evaluated on its own merits with reasonable conditions attached.
- B. Conditions. The following shall be considered where appropriate for inclusion:
- (1) Special Use Permit conditions.
    - (a) Safe ingress and egress.
    - (b) Roadway ownership and design. Ensure roadways and firelanes are adequate for year-round fire equipment movement.
    - (c) Parking in accordance with the supplemental section and additionally, auxiliary parking.
    - (d) Storage facilities such that adequate indoor storage is available. See supplemental section.
    - (e) Utilities to include sewer, water, telephone, electric, cable television, etc. See supplemental section on television dishes.
    - (f) Common property ownership and the creation of an owner's association.
    - (g) Sign size, location, lighting, etc. See supplemental section on signs.
    - (h) Recreational uses, active and passive.
    - (i) Buffers, natural and man-made, as necessary.
    - (j) Density of development as specified in the area requirements.
    - (k) Other reasonable and appropriate conditions as deemed necessary by the permitting board. See supplemental section on development conditions.
  - (2) Site plan review conditions. See site plan review section.

**§ 25-35. Residential commercial uses in B1 District.**

Commercial structures (preexisting and new) located within the business 1 District may, by special use permit, be partially used for dwelling purposes when the following conditions are met:

- A. Location in structure. All such dwellings shall be located on the second or third floor.
- B. Location. The location is appropriate for housing units with respect to health, safety and general welfare of the occupants.
- C. Parking. Sufficient off-street parking is available, preferably on the parcel where the structure is located or in close proximity to the structure.
- D. Other conditions. Other reasonable conditions as deemed necessary.

**§ 25-36. Lakeshore regulations.**

The following regulations shall apply to parcels located adjacent to Chautauqua Lake. In cases of conflict with other regulations, the most stringent shall apply.

- A. Set backs. No principal structures intended for inhabitation shall be permitted within fifty (50) feet of the shoreline based on high water levels of one thousand three hundred ten and five tenths (1,310.5) feet mean sea level (MSL).
- B. Accessory buildings. Accessory building not utilized for inhabiting shall be allowed by right when set back fifty (50) feet or more from the shoreline [based on high water level of one thousand three hundred ten and five tenths (1,310.5) feet MSL]. Accessory buildings less than fifty (50) feet from the shoreline shall be allowed by special use permit with consideration given to the following:
  - (1) Visibility from adjacent parcels.
  - (2) Structure is sufficiently anchored to prevent movement due to wind, high waters, etc.
  - (3) Maximum floor space of one hundred fifty (150) feet recommended.
  - (4) Structure does not extend beyond the natural high-water shoreline.
  - (5) Other reasonable conditions deemed necessary.
- C. Breakwalls. Any modifications of a shoreline shall be in accordance with the New York State Department of Environmental Conservation regulation.
- D. Fences. Any fence established within fifty (50) feet of the shoreline [based on highwater level of one thousand three hundred ten and five tenths (1,310.5) feet MSL] shall be by special use permit only. Consideration shall be given to the following:
  - (1) Visibility form adjacent parcels.
  - (2) Height of fence
  - (3) Type of fence.
  - (4) Other reasonable conditions deemed necessary; refer to supplemental section of fence.
- E. Docks. All docks extending from a residential district shall be utilized only for noncommercial pleasure uses by the owner of the property or any persons who may have a permanent legal right-of-way over the property from which the dock extends.
- F. Uses allowed. Any use created on a dock, pier, island, floating vessel or in general on Chautauqua Lake shall be listed as an allowed use in the district over which access is obtained to the proposed use. Adequate off-street parking shall be required.

**§ 25-37. Home occupations.**

Standards. In districts where allowed, home occupations shall meet the following conditions:

- (1) Use of accessory building. No existing or new accessory building constructed after the effective date of this local law shall be utilized as a home occupation.
- (2) On-premises sales. Goods may be sold on the premise.
- (3) Products. The quantity, type and place of manufacture for all goods to be sold may be regulated.
- (4) Outside display. Goods may not be displayed outdoors.
- (5) Signs. One (1) sign up to a maximum of two (2) square feet in size and no higher than five (5) feet (to the top of the sign) shall be allowed on premises.
- (6) Parking. Off street parking shall be required sufficient to handle peak periods.
- (7) Nuisances. No nuisances as defined in the definition section shall be allowed. Effects on the character of the neighborhood shall be minimal.

**§ 25-38. Professional offices.**

Pre-existing home occupations. Home occupations legally existing before the enactment of this local law shall not generally be required to comply with the above conditions. However, where there is clear evidence that a nuisance is present due to an increase level of activity or a substantial change in the nature of the home occupation, then the use shall be subject to a special use permit proceeding, and any of the above conditions may be imposed on the use where reasonably possible.

Professional offices may be allowed by special use permits in accordance with the following specific conditions:

- A. Parking. Adequate off-street parking must be provided in order to handle peak parking. Adequate space for expansion of parking and/or the maneuvering of vehicles must be provided.
- B. Traffic safety. The ingress/egress system must be designed so as to minimize potential traffic safety problems.
- C. Signs. Only one (1) sign for the purpose of advertising the business shall be allowed on the premises, and it shall be in accordance with the sign section. Additionally, it shall be not higher than five (5) feet in height to the top of the sign.
- D. Buffer. A proper buffer zone shall be provided to protect adjacent properties if deemed necessary.
- E. Hours. The hours and days of operation may be included as a condition for the granting of the special use permit.
- F. Lot size. The overall size of the property must be such that it is capable of supporting the professional office operations and any related activity while at the same time maintaining appropriate open space.
- G. Neighborhood. The general character of the neighborhood must not be substantially changed by the presence of professional offices, nor shall there be a resultant devaluation of adjoining properties.

**§ 25-39. Household sales.**

In order to preserve the character of neighborhoods, garage and other similar type of noncommercial sales (lawn sales, household sales, flea market, etc.) shall be subject to following conditions:

- A. Frequency. Sales shall be limited to three (3) periods of three (3) days each year per property owner.
- B. Signs. Refer to supplemental sign section.
- C. Exempt sales. All public or civic nonprofit organizations shall be exempt from the requirements of this section.

**§ 25-40. Temporary retail outlet.**

- A. Purpose. Temporary retail outlets providing needed products at convenient locations and assuring that these temporary businesses are conducted safely and in an aesthetically acceptable manner are the primary purposes of this section.
- B. Conditions. Prior to being granted a zoning permit, the Code Enforcement Officer shall ensure that the following conditions are met:
  - (1) Signs. All sign requirements of the supplemental section on signs shall be complied with.
  - (2) Location. Permission in writing from the owner of the property on which the temporary retail outlet is to be located shall be provided prior to being granted a zoning permit.
  - (3) Safety. Safe entry and exit to and from the site must be assured along with sufficient off-street parking.

- (4) Cleanup. At no time during the operation shall any junk or debris be allowed to accumulate. At the conclusion of a selling period, the site shall be restored to its original state. Displayed of retail goods shall be accomplished in a neat and orderly fashion.
  - (5) Hours. The dates and hours of operation shall be clearly defined.
  - (6) Sale items. The type of retail goods to be sold shall be specified along with the quantity.
  - (7) Allowed only in B-1 and B-2 districts for a period not to exceed two weeks within twelve months.
- C. Administration. In districts where temporary retail outlets are specified as being allowed, the Code Enforcement Officer shall grant a by right zoning permit after all conditions in Subsection B above have been met. Said permit shall cover, as a maximum, a one-year period only. Prior to issuing the zoning permit, all fees shall be paid. If a zoning permit is denied due to the inability of an applicant to meet certain conditions, the applicant may request a use/area variance.

**§ 25-41. Drive-in establishments.**

- A. Drive-in establishments shall include those businesses designed to either wholly or partially provide services to customers while in their automobiles parked on the premises; for example, included but are not limited to drive-in theaters, restaurants, film shops, etc.
- B. Regulations. Drive-in establishments shall be allowed by special use permits in districts where they are listed and the following conditions shall be considered prior to granting the permit:
  - (1) See the Supplemental section on general conditions and/or
  - (2) Considerations prior to granting permit.
    - (a) Traffic safety:
      - [1] Provisions for traffic to back up off of public streets shall be provided.
      - [2] Safety entry and exit shall be provided with only one (1) entry and exit point.
      - [3] Proper parking, which allows convenience and safety, shall be provided.
      - [4] Pedestrian safety shall be considered when constructing the facility and parking spaces.
    - (b) Locational consideration will be analyzed to ensure that the character of the neighborhood will not be significantly diminished.
    - (c) Hours of operation shall be established.
    - (d) There is a need for buffers, especially when situated near residential structures.

**§ 25-42. Vehicle and Auto Body Repair shops.**

- A. Purpose. Vehicle repair shops and auto body repair shops are regulated to promote safe and properly located shops which are visually attractive to the greatest extent possible.
- B. Conditions. The following conditions shall be met:
  - (1) Vehicle storage. Any vehicle stored outside shall be enclosed within an appropriate fence which shall make it impossible to view the vehicle.
  - (2) Hours of operation. The hours of operation shall be derived so as to limit the noise during non-business hours.
  - (3) Area requirements. The shop shall be allowed only if it is to be located at least two hundred (200) feet from existing residential structures located on adjacent parcels.

- (4) The supplemental section on trash shall be complied with.
- (5) Other conditions. Refer to the supplemental section on general conditions.

C. Preexisting uses.

- (1) Expansion and enlargements. All expansions or enlargements of repair shops in existence prior to enactment of this local law shall be subject to Subsection B(1), Vehicle storage, of the section.
- (2) Preexisting uses. Where it is determined at a public hearing held by the Municipal Board that a nuisance exists with a preexisting use, then Subsection B(1), Vehicle storage, and/or Subsection B(2), Hours of operation, can be enforce within a reasonable time period.

**§ 25-43. Vehicle Sales. (New and Used)**

A. Purpose. For the purpose of promoting safe and aesthetically pleasing vehicle sales lots, the following conditions are proposed.

B. No more than eight (8) special use permits for vehicle sales shall be permitted in the village at any time.

C. Conditions.

- (1) Lot size. Land area must be sufficient to handle vehicles, ingress and egress and off-street parking. Provide a detailed site plan to scale prepared by a licensed architect, engineer or land surveyor depicting the number of individual parking spaces measuring a minimum of 10 ft. x 18 ft. and depicting emergency vehicle access a minimum of 20 ft. between the rows of cars on display. Parking for customers and staff shall be provided in compliance with Section 25-48.
- (2) Location. All vehicles being offered for sale shall be set back a minimum of twenty-five (25) feet from the street edge and neatly arranged in an organized manner. Vehicles not offered for sale shall be located behind the main building setback line, and if necessary, it may be required that they be fenced in so as not to be visible.
- (3) Signs. All signs and advertising devices must comply with the supplemental sign section. No banners, posters, pennants, ribbons, streamers, spinners, balloons or similar moving, fluttering or revolving devices shall be used for the purpose of advertising or attracting attention.
- (4) The entire parking area must be paved.
- (5) All entrances and all sidewalks must remain clear to their established width at all times.
- (6) The Special Use Permit shall be for the sale of automobiles, sport utility vehicles and/or pick-up trucks only. Boats, recreational vehicles and/or trailers will not be permitted to be displayed or stored on the property.
- (7) The applicant shall comply with all zoning regulations and requirements as set forth in the Village of Lakewood Zoning Law.
- (8) Only allowed in Sub zone known as B2-A.
- (9) Lot must have approved building for office space, no trailers or temporary buildings.

D. Individual Vehicle Sales. Sales of vehicles by individuals in residential and commercial districts shall be limited to one (1) vehicle per lot, per calendar year.

**§ 25-44. Service stations.**

A. Purpose. Gas stations, as defined in the definitions section are regulated in this section to promote safe and properly located stations which are visually attractive.

B. Entrance/exit. No public garage or motor vehicle service station or private garage for more than five (5) vehicles shall have a vehicular entrance closer than two hundred (200) feet to an entrance to a church, school, theater, hospital, public park, playground or fire station. Such measurement shall be taken as the shortest distance between such entrances across the street and along the street frontage if both entrances are on the same side of the street or within the same square block. Additionally, no



entrance or exit shall be located within fifty (50) feet of a residential district.

- C. Location. All motor vehicle service stations shall be so arranged and all gasoline pumps shall be so placed as to require all servicing on the premises and outside the public way; and no gasoline pump shall be placed closer to any side property line than fifty (50) feet.
- D. Inoperative vehicles. Inoperative vehicles and parts of motor vehicles shall be enclosed within an appropriate fence which shall make it impossible to view the vehicle from adjacent properties or roadways.
- E. Waste materials. All waste material, motors and motor parts will be stored within the structure or enclosed within fencing so as not to be visible from off the property.
- F. Preexisting stations. Motor vehicle service stations in existence before the enactment of this local law shall be subject to Subsection D, Inoperative vehicles and Subsection E, Waste materials, above. Compliance shall take place within six (6) months. In addition, any expansion or enlargement of motor vehicle service station shall be subject to all regulations in this local law within reason as determined by the Municipal Board. Where compliance will conceivably create a hardship, it shall be the option of the owner of the nonconforming use to apply for a variance.

**§ 25-45. Accessory structures.**

One accessory structure shall be permitted in all districts. The following regulations shall apply to these structures:

- A. Permits shall be required for all accessory structures.
- B. Accessory structures shall be (reliant on) the principal building.
- C. Yard requirements: Accessory structures shall meet the accessory yard requirements for the appropriate district.
- D. Accessory structures shall not exceed 200 sq. ft. gross building area.
- E. Accessory structures shall not exceed 12 ft. in height measured from grade to ridge.
- F. Accessory structures shall be in compliance with lot coverage and green space requirements for the lot.

**§ 25-46. Private Swimming Pools.**

- A. Conditions. Private swimming pools shall be required to meet the following conditions.
  - (1) Permits. It shall be unlawful to maintain, construct, erect, install, modify, alter, demolish or change any swimming pool, or to permit any such acts, without first obtaining a zoning permit and then only as an accessory to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests.
  - (2) Health and Safety. All swimming pool shall be constructed and maintained to comply with all New York State and Federal regulations.
  - (3) Noise. Such pool shall be equipped with an integral filtration system and filter pumps or other mechanical devices which shall be so located and construction as not to interfere with the peace, comfort and repose of the occupant of any adjoining property.
  - (4) Setback requirements. Pools shall be installed in accordance with the area requirements of the appropriate district.

**§ 25-47. Off-street parking.**

- A. Purpose. Off-street parking space(s) with a proper and safe access shall be provided within a structure or in the open to serve adequately the uses on each lot within the district. Any application for a zoning permit for a new or enlarged building structure or change in use shall include with it a plot plan drawn to scale and fully dimensioned, showing any parking in compliance with the regulations of this local law. However, in existing business districts, parking shall only be required to be provided for new development where it is reasonably possible.
- B. Size requirements. A required off-street parking space shall be an area of not less than one hundred sixty-two (162) square feet, not less than eight (8) feet wide by eighteen (18) feet long, exclusive of access drives or aisles, ramps, columns or office and work areas. Aisles between vehicular parking spaces shall not be less than twelve (12) feet in width when serving automobiles parked at an angle of forty-five degrees (45°) in one (1) direction and not be less than twenty (20) feet in width when serving automobiles parked perpendicular to the aisles and accommodating two-way traffic.
- C. Street access. Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the movement of traffic.
- D. Location. No parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard, and no parking spaces nor portion thereof established on a lot without a building shall be located closer to any street line than the front yard setback requirements of this local law in the same manner as a building or structure. The aforementioned required setbacks shall not be applicable to business districts nor to residential driveways which may be used for parking. For nonresidential off-street parking, the Municipal Board may, upon request by the applicant, allow certain parking spaces off the applicant's property but within five hundred (500) feet of said property to be included as part of the required spaces.
- E. Material composition. All open off-street parking spaces and access areas, shall be surfaced with some all-weather low-dust materials, such as stone, gravel or macadam.
- F. Number of spaces. The following parking spaces, on an improved surface, shall be provided and satisfactorily maintained by the owner of the property, for each use which, after the date when this local law becomes effective, is erected, enlarged or altered for use for any of the following reasons:

<b>Uses</b>	<b>Parking Spaces</b>
One-family residence and Mobile home	2 dwelling unit
Two-family residence	2 dwelling unit
Multifamily residence	2 dwelling unit
Church	5 fixed seats
Home for aged	3 residents
Elementary school	20 students
High school and college	12 students
Library	1,000 square feet
Places of assembly, including convention hall and dance hall	100 Square feet
Club, lodge (without sleeping accommodations)	Each 5, capacity of hall
Places providing sleeping accommodations, including hotels, motels, and tourist homes	Sleeping unit
Mortuaries or funeral parlors	1/8 viewing room, plus 1 for every employee
Offices, banks	100 square feet floor area
Food market	200 square feet floor area

Eating and drinking establishment	4 seats or 1 for each 200 square feet floor area, whichever is more
Bowling alley	¼ alley
Other commercial	200 square feet sales area
Industrial	Employee (maximum work shift)
Other uses not listed above	As determined by special use permit

**§ 25-48. Loading and unloading.**

- A. Need. Off-street loading and/or unloading spaces for nonfarm commercial vehicles while loading and/or unloading shall be provided for new uses where it is deemed that such facilities are necessary to serve the use or uses on the lot. At least one (1) off-street loading and/or unloading space shall be provided for commercial establishments in excess of seven thousand five hundred (7,500) square feet of floor area.
- B. Size. Each loading and/or unloading space shall be at least fourteen (14) feet wide, sixty (60) feet long and shall have at least a fifteen-foot vertical clearance and shall have a sixty foot maneuvering area. Refer to variance section where this requirement cannot be met.
- C. Use of parking spaces. Generally, parking spaces shall not be used for loading and/or unloading purposes, except during hours when business operations are suspended or if pedestrian and vehicle traffic will not be obstructed. However, the permitting board may allow the use of parking spaces when it is determined that the effects will be minimal.
- D. Design. Loading and/or unloading facilities shall be designed so that trucks need not back in or out or park in any public right-of-way. No truck shall be allowed to stand in a traveled roadway or pedestrian walkway or in any way block the effective flow of persons or vehicles. The loading and/or unloading area shall have an all-weather surface to provide safe and convenient access during all seasons.
- E. Preexisting uses. Any use existing as of the effective date of this local law shall not be subject to this section.

**§ 25-49. Signs.**

- A. Administration.
  - (1) Permits required. Except as listed in the following Subsections A(2) and (3), a zoning permit shall be required before an outdoor sign is created, altered or enlarged. A permit shall not be issued until all applicable sign regulations are met. All requests for permits must be accompanied by a plan drawn to scale showing the exact size, shape, location and type of sign.
  - (2) Exempt signs. The following signs shall be exempt from all regulations of this section: public signs, such as directional, street and traffic.
  - (3) Signs requiring no permit. The following signs shall be subject to all regulations of this section but shall be exempt from obtaining a permit as required above:
    - (a) Temporary signs to include contractor signs, realtor signs and political signs. [See Subsection B(3) below.]
    - (b) Indoor signs.
    - (c) Sandwich Style, see (3) c
- B. Specific regulations by sign type.
  - (1) Signs attached to buildings.
    - (a) No sign shall project more than twelve (12) inches from the building wall on which it is attached.

- (b) No sign shall project higher than the roofline by more than five percent (5%) of the length of the storefront.
  - (c) Signs shall not be painted on buildings.
  - (d) No sign shall be so located as to overhang above a walkway or a right-of-way.
- (2) Freestanding signs. Freestanding signs shall be allowed in accordance with the following:
- (a) Height. A maximum height of nine (9) feet from the ground to the top of the sign shall be allowed.
  - (b) Base. All freestanding signs shall have a monument base.
- (3) Temporary sign regulations. The following specific regulations shall apply to temporary signs:
- (a) Political signs up to ten (10) square feet in size shall be allowed 30 days before and one (1) week after the election, and it shall be the responsibility of the candidate to comply to sign with this regulation. Permission from the property owner must be received prior placement.
  - (b) Household sale signs shall be permitted in accordance with the following regulations:
    - [1] Maximum size: No more than three (3) feet high by three (3) feet wide.
    - [2] Maximum number: No more than three (3) signs shall be used, and permission must be received from property owners where off-premises signs are located.
    - [3] Location: Signs shall not be placed on trees, utility poles, street signs or traffic signs.
    - [4] Illumination: Signs shall not be illuminated.
    - [5] Time: Household signs may be erected on the day the sale starts and must be removed on the last day of the sale.
  - (c) Sandwich Style on-premises roadside ground signs shall be allowed in accordance with the following conditions:
    - [1] Maximum size: No more than four (4) feet high by three (3) feet wide.
    - [2] Maximum number: No more than one (1) sign shall be used per business with more signs requiring a permit.
    - [3] Location: Signs shall not be placed on trees, utility poles, or within five (5) feet from edge of pavement.
    - [4] Illumination: Signs shall not be illuminated.
    - [5] Time: Signs shall be displayed only during business hours.
    - [6] Permits: In all districts where roadside stands are allowed, a permit by right shall be required.
  - (d) Banner & Flag Signs: Permit is required and banner is not to exceed 20% of storefront. Banner can be displayed for no more than thirty (30) days. Flag Signs shall be limited to two 2 per property.
- (4) Billboards. Off premises advertising signs shall only be permitted in an off premises sign overlay zone.
- (a) An overlay zone is hereby established for signs along Fairmount Ave. in the Village of Lakewood. It shall consist of property known as parcels numbers 385.06-1-39 and 385.06-1-38 (the part of which is located south of the Rt. 394 Right-of-Way).
  - (b) Any off premises advertising signs located within the off premises sign overlay zone shall be subject to the following requirements:
    - [1] All signs located within this zone shall be limited to 672 square feet per face.
    - [2] No sign shall exceed 20 feet in height, including support as measured from the ground below the sign.
    - [3] Only two billboard faces shall be permitted on any one structure or support.

- [4] There shall be no artificial illumination permitted.
- [5] All off premises sign applications shall be allowable only by special use permit with in the overlay zone.
- [6] Any off premises sign in the overlay zone shall be subject to all set back requirements, except that no portion of any sign shall be placed greater than one hundred (100) feet from the right of way which borders Fairmount Ave.
- [7] Placement of a sign and structure shall minimize the visual impact upon adjacent traffic properties. Placement shall not obscure or impair the use of roadways, control devices, of otherwise impair traffic safety.
- [8] All sign faces shall be two-dimensional with no raised surface exceeding one (1) inch.
- [9] No obscene or amoral copy will be permitted on any billboard face.
- [10] An applicant who has been granted a permit for the placement of a sign shall be responsible for continuous maintenance of said sign and structure. The applicant and/or owner of said signs shall also be responsible for proper and complete removal of all signs and structure in the event that the special use permit granted is terminated or abandoned.

C. Districts allowed in; Size.

Districts	Districts Where Signs Are Allowed (by right or special use permit)				Minimum Setback Free standing Business (feet)	Illumination
	Permanent	Temporary	Size of Sign, Maximum (square feet) <sup>1</sup>			
			Permanent	Temporary		
On Prem- ises	On Perm- ises	On Prem- ises	On Prem- ises			
R1	S	NA	4	NA	15	NA
R2	S	NA	4	NA	15	NA
R3	NA	NA	NA	NA	NA	NA
B1	R	R	25 <sup>2</sup>	15	15	EXT
B2	R	R	50 <sup>2</sup>	15	15	INT/EXT
I1	R	R	200 <sup>3</sup>	15	15	EXT

Legend:

- R: by right permit                      INT: internal illumination  
 S: special use permit                  EXT: external illumination  
 NA: not allowed  
 NP: no permit required

NOTES:

- 1 The sign size provided represents the maximum square feet allowed per business for all signs cumulatively.
- 2 Or twenty percent (20%) of the storefront, whichever is greater.
- 3 Or fifteen percent (15%) of the building front, whichever is greater.
- 4 The minimum setback for signs will be measured from the edge of the road.
- 5 Portable signs will not be included when calculating maximum square footage.

D. Maximum number.

District	Maximum Number Signs
R1, R2, and R3	1
B1, B2 and I1	2

NOTE: More than the maximum number of signs shall be allowed by special use permit with conditions attached if it can be accomplished in good character with the neighborhood and does not exceed size requirements.

E. General regulations.

- (1) Conditions.

- (a) Every permitted sign must be constructed of durable materials and kept in good condition and repair.
- (b) Any sign which is allowed to become dilapidated may be removed by the municipality at the expense of the owner or lessee of the property on which it is located after appropriate notice and hearing.

(2) Location.

- (a) Traffic.
  - [1] No sign shall be located that the sign might interfere with traffic, be confused with or obstruct the view or effectiveness of any official traffic sign, signal or marking.
  - [2] No sign shall be stapled, pasted or otherwise attached to utility poles or trees within a road or street right-of-way.
- (b) Ingress, egress.
  - [1] No sign shall be located which shall prevent free ingress or egress from any window, door or fire escape.
  - [2] No sign shall be so placed that it will obscure light and/or air movement from a building.
- (c) Located near residential district. All signs within one hundred (100) feet of a residential district shall be by special use permit.

(3) Illumination.

- (a) Illumination arrangements for signs shall be such that the light is concentrated on the sign with a minimal spillover cast on the street, sidewalk or adjacent properties.
- (b) Signs which contain, include or are illuminated by any flashing, intermittent or moving lights are prohibited.
- (c) No CEVMS are allowed.

F. Cessation.

- (1) If a use ceases all signs must be removed within 30 days.
- (2) The village may remove such signs thirty (30) days after a notice of violation is issued. Removal shall be authorized by a hearing of the Municipal Board. Removal cost shall be the responsibility of the property owner. Removal shall include all sign frames and supports.

G. New York State regulations.

- (1) New York State highway regulations related to outdoor advertising shall also apply where applicable.

**§ 25-50. Fences; walls.**

A. Regulations. Fences and walls as defined in § 25-6, Definitions, shall be allowed by permit in any district and shall conform to the regulations which follow:

- (1) Exempt fencing. Fencing used for agricultural purposes or district transition shall be exempt from all regulations except for maintenance requirements detailed below.
- (2) Permits. Fences shall be allowed up to four (4) feet in height. No fence shall exceed six (6) feet in height. Fences above four (4) feet in height shall require a special use permit and consideration will be given to visibility from adjacent properties, light and air movement, etc.

- (3) Setback from road. Fences shall be set back a minimum of ten (10) feet from the edge of the road (street) and shall not be located within legal highway rights-of-way.
  - (4) Proximity to neighboring properties. All fences, walls and/or hedges shall be located no closer than two (2) feet from adjacent property lines. This rule can be waived if agreed to, in writing, by adjacent property owners.
  - (5) Fire Hazard. Any fence considered to be flammable shall be prohibited. Also any hazardous fence shall be not allowed.
  - (6) Finished sides. The finished sides of all fences must face adjacent properties. This rule can be waived if agreed to, in writing, by adjacent property owners.
  - (7) Materials. Only durable materials generally used and accepted by the industry shall be used for fences.
  - (8) Maintenance. All fences shall be maintained structurally and visually.
  - (9) Chain Link Fence. No chain link fences will be allowed in front yards of Districts R1, R2, R3.
- B. Preexisting fences. Fences in existence at the time of enactment of this local law shall only be subject to Subsection A(1), Exempt fencing, and A(8), Maintenance, above.

**§ 25-51. Towers; Windmills.**

Towers and windmills shall be allowed in districts where permitted after the following conditions have been considered for inclusion in the permit:

- A. Location. Towers and windmills shall be removed from surrounding residential structures sufficiently so as to not cause a nuisance, due to noise, appearance or other factors.
- B. Buffer. The placement or retention of buffers shall be required where they would improve the compatibility of the use with surrounding areas.
- C. Attractive nuisances. The base of towers over sixty (60) feet in height and windmills shall be sufficiently protected from entry either by tower/windmill design or by protective fences, etc. Additionally, a sign shall be conspicuously placed near the base of a communications tower, and it shall generally state that danger exists and that no access is permitted.

**§ 25-52. Toxic waste.**

For the purpose of protecting present and future generations from the potentially harmful health and safety effects of toxic materials, the following regulations shall apply to industries and businesses:

- A. Local regulations. It shall be unlawful to maintain, store, bury or in any other way keep solid or liquid wastes which are considered to be toxic or hazardous. However, toxic wastes which are the results of a locally operated manufacturing process shall be permitted to be temporarily stored for a reasonable period of time pending proper disposal, as determined by the permitting board.
- B. State regulations. State and federal regulations shall be complied with.
- C. Preexisting uses. This section shall apply to all preexisting industries/businesses.

**§ 25-53. Adult Establishment.**

- A. A commercial establishment, including but not limited to an adult bookstore, adult eating or drinking establishment, adult theater, adult motel, massage establishment, nude model studio or other adult commercial establishment.
- B. Adult Bookstore.
  - (1) A store which has as a substantial portion (equal to or greater than 25%) of its stock-in-trade and/or floor area as hereinafter defined in any one or more of the following:

- (2) Books, magazines, periodicals or other printed matter which is characterized by an emphasis upon the depiction or description of sexual activities or anatomical areas; or
- (3) Photographs, films, motion pictures, video cassettes, slides or other visual representations which are characterized by an emphasis upon the depiction or description of sexual activities or anatomical areas.

C. Restrictions affecting adult uses.

Adult uses, including but not limited to adult bookstores, adult massage parlors, adult motion picture theaters, adult mini-motion picture theaters and adult entertainment establishments, shall be permitted subject to the following restrictions.

- (1) No such adult uses shall be located within 1,500 feet of another existing adult use.
- (2) No such adult use shall be located within 500 feet of the boundaries of any R-1, R-2, R-3, I-1 & B-1 Zoning District.
- (3) No such adult use shall be located within 500 feet of a preexisting school, church or other similar place of worship.
- (4) No such adult use shall be located in any zoning district except the B-3 Auto Sales south of E. Fairmount Ave.
- (5) Store entrances shall not face a public street.

D. Prohibition Regarding Public Observation.

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specific sexual activities or specified anatomical areas from any public way or from any property other than the property where the adult use is located. This provision shall apply to any display, decoration, sign, show window or other opening.

**§ 25-54. Mobile Food Truck.**

- A. A mobile food truck permit is required for each and every mobile food truck.  
The application shall provide the following:

1. The name of the business and its owner or owners and the mailing address of the business;
2. A description of the proposed business plan for the mobile food truck operation;
3. A proposed service route and hours of operation with a detailed schedule of times and locations where the mobile food truck will be stationary and service food;
4. Certification that the vehicle has passed all necessary inspections required by the Chautauqua County Health Department;
5. Proof that the Mobile Food Truck will be serviced by a mobile food commissary;
6. A certificate of insurance providing general liability insurance.

- B. Approval process: An application must be submitted to the Village Clerk.

1. The Village Clerk may work with the applicant or permit holder to modify a service route at any time, before the issue of a permit, or after the issue of a permit, if the grant of a permit or approval of a service route has led to the creation of a nuisance or otherwise endanger the public health, safety, or order or by request of the permit holder.

- C. Limitations in the number of permits.

The village may from time to time set a limit on the number of total permits that may be issued or renewed per year; however no more than five (5) permits shall be issued at any time.

- D. Permit renewal.



1. Every mobile food truck permit, unless suspended or revoked by the village for a violation of any provision of this section or other rule or regulation promulgated for the implementation of this section, shall be renewed annually given that a renewal fee is paid within thirty (30) days after its one year expiration, at which time the permit holder shall forfeit the right to renew and the permit may be made available to another applicant for new permit if the limitation on the number of permits has not been reached;
2. The renewal of a permit does not also guarantee renewal of the previously approved route. The village reserves the right to add, remove and reapportion available locations among mobile food truck operations at renewal.

#### E. Rules and Regulations.

General. The committee members are hereby authorized to promulgate, both jointly and within their respective departments, additional rules and regulations appropriate for the implementation of this section, and if necessary, work with other agencies and departments of the village and state to establish a streamlined process for the permitting of mobile food trucks; provided, however, that such rules and regulations are not inconsistent with the following limitations and restrictions;

1. No operator of a mobile food truck shall park, stand or move a vehicle and conduct business within areas of the village where the permit holder has not been authorized to operate;
2. The issuance of a permit does not grant or entitle the exclusive use of the service route, in whole or in part, to the mobile food truck permit holder, other than the time and place as approved for the term of the permit;
3. No mobile food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches and stand up counters, unless a proposal for such seating arrangements is submitted with the permit application and approved by the village;
4. Consumers shall be provided with single service articles, such as plastic forks and paper plates and a waste container for their disposal. All mobile food trucks shall offer a waste container for public use that the operator shall empty at his own expense.
5. No mobile food truck may operate on public property unless the village has granted approval on the permit application for its operation at the particular location during specific times;
6. For mobile food trucks on public property, the village reserves the right to temporarily move a mobile food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction or other public benefits.

#### F. Permit Fees.

Application Fee. The application fee for a permit or a renewal of a permit granted by the village for the operation of a mobile food truck shall be paid at the time of the application. A fee established by separate ordinance.

#### G. Prohibition against the transfer of a permit.

1. Transfer for value prohibited. No person holding a permit for a mobile food truck shall sell, lend, lease or in any manner transfer a mobile food truck permit.
2. Transfers as part of the sale of a business. A permit holder may transfer a permit as part of a sale of the business.
  - a. Prior to any such transfer, the transferor shall notify the village in writing and the transferee shall submit a food truck permit application;
  - b. Any such transfer shall be subject to the terms and conditions of the original permit.
3. Unauthorized transfer voids permit. Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit.

#### H. Operation of Mobile Food Trucks.

1. Operation without permit. Any mobile food truck being operated without a valid mobile food truck permit issued by the village shall be deemed a public safety hazard and may be ticketed and impounded.
2. Unattended vehicle prohibited. No mobile food truck shall be parked on the street overnight or left unattended and unsecured at any time food is kept in the mobile food truck. Any mobile food truck which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.
3. A mobile food truck operating outside of an approved route, at an unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this ordinance.

I. Enforcement.

1. Fine for Violation. Any permit holder operating a mobile food truck or service in violation of any provision of this section or any rules and regulations promulgated by the village may be subject to a fine of three hundred (\$300.00) dollars per day.
2. Revocation, Suspension, Modification. Once a permit has been issued it may be revoked, suspended, modified or not renewed by the village for failure to comply with the provisions of this section or any rules and regulation.
3. Removal, Any permit holder found in violation of this section or any rules and regulations promulgated by the village may be issued a ticket for violation and the mobile food vehicle may be impounded
4. Enforcement. The provisions of this section or any rules and regulations promulgated by the village may be enforced jointly by the Police Department and the Code Enforcement Officer.

**§ 25-55. Excessive noise is prohibited.**

No person shall make any excessive noise.

- A. Sound reproduction devices for commercial or advertising purpose.  
No person shall operate or use or cause to be operated or used any sound reproduction device for commercial or business advertising purposes or for the purpose of attracting attention to any performance, show or sale or display of merchandise in connection with any commercial or business enterprise, including those engaged in the sale of radios, television sets, electronic devices, tape recorders, phonograph records or tapes in front or outside of any building, place or premises or in or through any aperture of such building, place or premises abutting on or adjacent to a public street, park or place or on or upon any vehicle operated, standing or being in or on any public street, park or place where the sound there from may be heard upon any public street, park or place or from any stand, platform or other structure or from any airplane or other device used for flying, flying over the village or on a boat or on the waters within the jurisdiction of the village or anywhere on the public street, parks or places provided, however, that nothing in this section shall prohibit vehicles from which ice cream products and similar products are sold from being equipped with a bell not exceeding three (3) inches in diameter, or a set of up to four (4) such bells, nor prohibit the use thereof by the driver of such vehicle, provided that no such bell or set of bells shall be capable of being heard from a distance greater than four hundred (400) feet and provided further that no such bells shall be used for any purpose between the hours of 9:00 P.M. and 9:00 A.M. nor be used as an ordinary warning signal at any time.
- B. Sound reproduction devices on public conveyances.  
No person shall operate or use any radio, musical instrument, television, electronic device or other machine or device in or on any bus or public means of conveyance, other than taxicabs, in such manner that the sound emanating from such sound reproduction device is audible to another person.
- C. No person shall cause the sounding of any horn or signaling device on any automobile, motorcycle,

bicycle or other vehicle, except as a danger warning.

D. Emergency signal devices.

No person shall operate or use or cause to be operated or used any emergency signal device, except:

1. on an emergency vehicle when such vehicle is in the immediate act of responding to an Emergency;
2. to give notice as a warning of an emergency; or
3. in order to reasonably test such device.

E. Motor Vehicles.

1. No person shall operate or cause to be operated any motor vehicle in such a manner that the sound level emitted there from exceeds eighty (80) dB(A) either:
  - a. at a distance of twenty-five (25) feet or more from the path of the vehicle when operated on a public street or sidewalk or in a public park or other public place;
  - b. at or beyond the property line when operated on private property. This subsection shall not apply to those motor vehicles being operated upon a public street to which §386 of the New York State Vehicle and Traffic Law applies.
2. This section shall apply to all motor vehicles, whether or not duly licensed or registered.

F. Construction Activities.

1. No person shall engage in or permit any person to be engaged in construction activities which create excessive noise at the property limits of the construction site between the hours of 10:00 P.M. of one day and 7:00 A.M. of the following day on any day of the week.
2. In the case of an emergency, construction activities directly connected with the abatement of such emergency may be undertaken for a period not to exceed seventy-two (72) hours from the commencement of such activities.

G. Noise-Sensitive zones.

No person shall create or permit to be created any noise on any street, sidewalk or public place, or on private property adjacent to any school, institution of learning, church or court while the same is in use, or adjacent to any hospital, nursing home or home for the aged, which noise unreasonably interferes with the working of such school, institution of learning, church or court or which disturbs or annoys patients in a hospital, nursing home for the aged.

H. Sound reproduction devices used for miscellaneous purposes.

1. No person shall use or operate or permit to be used or operate any radio, television, electronic device, musical instrument or other machine or device for the producing, reproducing or amplification of sound with louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners. It shall be a violation of this section if sound emanating from such machine or device is:
  - a. Audible beyond the property line of the premises upon which it is being used between the hours of 10:00 P.M. and 8:00 A.M.
  - b. Audible at a distance of fifty (50) feet beyond the property line of the premises upon which it is being used between the hours of 8:00 A.M. and 10:00 P.M.
  - c. Audible at a distance of fifty (50) feet from such machine or device if operated from within a motor vehicle on a public street.
  - d. Audible at a distance of fifty (50) feet from such machine or device when operated in a public park or other public place.
2. The provisions of this section shall not apply to the following:

- a. Funeral processions or use of such devices by a church.
- b. The production of music in connection with any parade authorized under any provision of law.
- c. Any musical performance upon a public place where a permit has been obtained from the village events for such purpose.

I. Loading and unloading of boxes and containers.

No person shall make or permit to be made excessive noise in connection with loading or unloading of any vehicle or the opening, unloading or destruction of bales, boxes, crates and containers.

J. Animals.

No person shall keep or permit the keeping of any animal or bird which makes excessive noise.

K. Penalties of offenses. Refer to Section \_\_\_\_\_

L. Administration and enforcement.

- 1. This chapter shall be administered and enforced by the Police Department unless provision is made otherwise herein.
- 2. The Chief of Police shall develop and promulgate measurement standards, testing methods and procedures to provide for the effective implementation and enforcement of this chapter.

**§ 25-56. Storage on Front Yards.**

No storage on front yards without permission from the Code Enforcement Officer. The property owner has opportunity to appeal to the Municipal Board.

(1) Storage units shall:

- (a) Be allowed by temporary use permit not to exceed 45 days within twelve months. Longer periods shall require a special use permit.
- (b) Be placed on the same lot as the principle building in rear or side yards at least 10 feet from the property lines.
- (c) Shall not exceed 10' high, 8' wide and 34' long.

\* Pre-existing storage units shall be removed 45 days after enactment of the regulation.

**§ 25-57. Junk Vehicles.**

- A. Title. This section shall be known as the “Junk Vehicles Law of the Village of Lakewood.”
- B. Purpose. For the purpose of promoting a clean, wholesome and attractive environment, it is declared to be of importance to the health, safety and welfare of the inhabitants of the Village of Lakewood to regulate, restrain and eliminate junk vehicles within the Village of Lakewood. This section is enacted in recognition of the findings that outdoor storage of even a single inoperable, unregistered, unlicensed or junk vehicle as defined by this section constitutes a nuisance, an annoyance to owners and occupants of adjoining property and an unsightly condition adversely affecting the general public, including the value of property therein.
- C. Definitions. As used in this section, the following terms shall have the meaning indicated:

JUNK VEHICLES:

1. Any wrecked, discarded, dismantled or partly dismantled or inoperable motor vehicle or any parts thereof.
2. Any vehicle which does not carry a current and valid motor vehicle registration or is not otherwise in any condition for legal use on the public highway.

MOTOR VEHICLE – Any automobile, bus, truck, tractor, mobile home, recreational vehicle, motorcycle, snowmobile or any other contraption originally intended in whole or in part to be used upon the public highways.

D. Junk vehicles prohibited; exceptions; removal.

1. The keeping of any junk vehicles as defined in §25-56C. of this section is prohibited within the Village of Lakewood, except as may be expressly permitted by this section.

2. Exceptions.

- (a) One junk vehicle is permitted, provided that it is located within a fully enclosed garage so as not to be visible from neighboring properties or from the street.

- (b) The temporary storage of a junk motor vehicle is permitted on a New York State licensed motor vehicle repair premises which is otherwise in compliance with the zoning laws

of the Village of Lakewood for a period of time not to exceed 30 days.

- (c) One unregistered motor vehicle is permitted, provided that said vehicle:

- [1] Does not fall within any of the provisions of Subsection 1, of the definition of “junk vehicles” in §25-56C. of this section.

- [2] Carries a valid and current New York State inspection sticker or other state’s valid and current inspection sticker; however, in no event shall such vehicle be stored for more than six months.

stored for

3. Notice to remove.

- (a) A junk vehicle not within the exceptions provided above shall be removed by the property owner upon which the junk vehicle is located within four days of the notification by the Code Enforcement Officer of the Village of Lakewood or his assistant or designee or by any police officer of the Village of Lakewood.

- (b) Notification by personal service or certified mail to the reputed owner of said vehicle, if known, or any property owner upon which said vehicle is located shall be sufficient.

E. Enforcement; penalties for offenses.

1. The owner or owners of the premises upon which the junk vehicle is located, the owner of the junk vehicle, any person having possession or custody of a junk vehicle or any other person, firm, corporation or other entity which allows, permits or causes the keeping of a junk vehicle in violation of this section shall be punishable as provided by this chapter.
2. A violation of this section is an offense punishable by a fine not exceeding \$350 and/or imprisonment not exceeding 15 days. Each day that a violation continues after four days from service of the notification to remove the vehicle shall constitute a separate offense and shall be punishable as herein provided.
3. In the event of the failure to remove a junk vehicle after the four-day notification to remove, the Village Police Department is hereby authorized to cause the removal of said vehicle or vehicles and all costs thereof, including storage, shall be at the sole expense of the property owner and/or owner of the junk vehicle. Said vehicle or vehicles, if unclaimed after four days, shall be deemed abandoned and may be sold or otherwise disposed of in accordance with §1224 of the Vehicle and Traffic Law of the State of New York or other applicable provisions of law.
4. If the junk vehicle is kept on property owned by another, then the property owner shall not be liable for any penalties, unless:

- (a) Said property owner consented or permitted or caused the keeping of the junk vehicle on said owner's property or prevented or obstructed the removal of such vehicles.

**§ 25-58. Storage of trash.**

- A. Purpose. It is the intent of this section to minimize safety, health and aesthetical related problem by controlling the storage of trash in accordance with the needs of each district.
- B. Conditions for temporary storage.
  - (1) Quantity. Trash may be temporarily stored or collected if it does not exceed the following limits. More than the maximum shall require a special use permit:
  - (2) Location. Trash must be stored in one (1) contiguous location.
  - (3) Buffer. Trash shall be located so as to be not visible from adjacent properties and roadways, or artificial barriers (e.g., fences, scrubs, etc.) shall be used to screen the trash.
  - (4) Disposal. Trash shall be stored only as long as necessary and shall be disposed of in a timely manner, not to exceed sixty (30) days.
  - (5) Preexisting. These conditions shall apply to all trash existing at the time of enactment of this local law.
  - (6) All trash shall be stored in covered rodent proof containers.
- C. Metal dumpsters. All dumpsters located on a site for thirty days or more shall comply with the following regulations:
  - (1) Location. Dumpsters shall be located on private property at a location approved by the permitting board.
  - (2) Buffer. A suitable buffer may be required.
  - (3) Covers. All dumpsters shall have tops which shall be utilized.
  - (4) Preexisting. Dumpsters existing at the time of enactment of this local law shall comply with dumpsters regulations specified by the permitting board within six (6) months from notification. Compliance requests may be appealed.

**§ 25-59. Heavy vehicles.**

- A. Purpose. It is the intent of this section to eliminate the nuisances, safety factor and aesthetically related problems associated with commercial trucks parked in residential districts.
- B. Regulations. Heavy vehicles shall comply with the following regulations:
  - (1) Location. Heavy vehicles shall not be allowed to park in any residential district.
  - (2) Location waivers. In an emergency (e.g., truck breakdown) or for normal deliveries, the locational requirements in Subsection B(1) above shall be waived for a maximum of forty-eight (48) hours.
- C. Preexisting heavy vehicles. This section shall apply to all heavy vehicles immediately, including those that have, in the past, parked in such a manner so as not to be in compliance with this section.

**§ 25-60. Keeping of farm animals prohibited.**

The keeping of farm animals shall be to six or less chicken hens.

**§ 25-61. Mobile home parks.**

- A. Conditions. Mobile home parks shall be allowed by special use permit in districts where allowed if the applicant is able to meet general special use permit conditions as well as the following:

- density  
fifty-foot  
back a  
size.
- (1) Area and setback requirements.
    - (a) Size. Parks shall consist of a minimum of ten (10) acres and shall be designed for a minimum of thirty (30) lots.
    - (b) Buffer. An appropriate vegetation or open space buffer shall be located around the perimeter of the park. The type and size of the buffer shall be determined by the and type of adjacent uses and the need for separating the uses. As a minimum, a buffer (open space or vegetation) shall be required, with the Municipal Board determining the need for a greater buffer.
    - (c) Setback. All mobile homes and other development shall be located a minimum of one hundred (100) feet from the edge of any public road. Mobile homes shall be set minimum of ten (10) feet from the edge of the park's private road.
    - (d) Lot. Each mobile home shall be located on a lot which is a minimum of six thousand (6,000) square feet and a minimum of fifty (50) feet in width.
    - (e) Side yard. Mobile homes shall be spaced a minimum of twenty-five (25) feet from each other.
    - (f) Floor space. The minimum floor space allowed for a mobile home placed in a park shall be seven hundred (700) square feet. Add-ons shall not be used in calculating the
  - (2) Streets and walkways.
    - (a) Entrance and exits to the park shall be safety designed.
    - (b) Private roads shall be a minimum of sixteen (16) feet wide and shall, as a minimum, be carpet coated and be approved by the Fire Chief for use by emergency vehicles.
    - (c) Private roadways shall be maintained in such a manner so as to permit safe travel, e.g., free of snow and ruts.
    - (d) Walkways from the street to door shall be recommended in addition to a patio for each mobile home.
  - (3) Parking.
    - (a) Off-street parking shall be provided with a minimum of four hundred (400) square feet for each mobile home.
    - (b) Sufficient auxiliary parking shall be provided for trucks, boats, travel trailers, etc.
  - (4) Recreation.
    - (a) Open recreational areas shall be set aside and improved at central locations at a rate of four hundred (400) square feet per mobile home. They shall be maintained in a manner conducive to recreational use.
  - (5) Skirting.
    - (a) Mobile homes shall be skirted with an attractive fire-resistant material within three (3) months from the time of setup.
  - B. Bond. At the discretion of the permitting board, the developer may be required to obtain an appropriate bond to ensure compliance with conditions attached to the special use permit.
  - C. Review. The Planning Board shall be notified of the request for a mobile home park permit and shall have the opportunity to make recommendation within thirty (30) days.
  - D. Preexisting parks. Mobile home parks in existence before the enactment of this local law shall be subject to the following regulations:

- (1) Mobile homes shall be skirted with an attractive fire-resistant material within one (1) year.
- (2) Enlargements or expansions of all mobile home parks in existence before the enactment of this local law shall comply with all regulations in this local law to the extent determined by the permitting board.

**§ 25-62. Temporary dwelling units, mobile.**

- A. Definition. See section on definitions.
- B. Inhabitation time. Temporary dwelling units may be inhabited by nonrenters on a temporary basis in accordance with the following chart. No permit or fee is required unless the number of inhabitation days desired is greater than that specified, in which case a special use permit must be requested.

<b>District</b>	<b>Maximum Number of Days Inhabited Per Time Period</b>
R1, R2, R3 B1, B2, I1	14 Days per 2 months

- C. Conditions.
  - (1) To be inhabited, the temporary dwelling units must be located on a lot which contains an inhabited principal dwelling unit.
  - (2) Temporary dwelling units may be stored (uninhabited) on any lot indefinitely.
  - (3) Area requirements, e.g., side yard requirements, shall be met.
  - (4) It is intended that temporary dwelling units be inhabited by visitors/guests and not by residents of the principal dwelling unit and shall not be rented.
  - (5) Temporary dwelling units shall not be connected to permanent sewerage/water facilities.
  - (6) Temporary dwelling units may not be utilized in such a manner so as to cause a nuisance.
  - (7) Contractors may use temporary dwelling units for field offices after obtaining a permit.

**§ 25-63. Recreation vehicle; trailer storage.**

- A. Number. A maximum of three (3) recreational vehicles, trailers or other similar vehicles may be stored outside on each parcel or series of contiguous parcels under single ownership.
- B. Location. All recreational vehicles/trailers, etc., shall be stored in rear yards whenever it is possible and shall not be stored in a front yard; nor shall they be allowed to become a nuisance. All area requirements of the district in which the vehicle is stored shall be met. Area variances shall be requested where these rules cannot be met.
- C. Preexisting vehicles. All vehicles covered by this section shall be subject to the regulations of this section six (6) months from the date of notification in writing.

**§ 25-64. Outdoor Furnaces/Boilers.** [added January 2010]

A permit shall be required for all new outdoor furnaces/boilers and they shall be located in side or rear yards and outdoor furnaces/boilers shall not be located closer than 100 ft. from habitable structures.

**§ 25-65. Sediment Control.**

- A. Purpose

The purpose of this Code is to provide regulations governing the applicability, submission requirements and standards for review and design of erosion and sediment control measures as a condition of projects requiring a “building permit and/or a land disturbance project”, the intent of this



Code is to:

- (1) Insure that the development and use of land within the Village of Lakewood does not have an adverse impact on local waterways, wetlands, adjacent land or upon the character of the community to protect the environment.

B. Applicability.

- (1) Prior to the issuance of a building permit in any zoning district, the applicant must receive approval by either the Code Enforcement Officer or, if applicable as stated below, the Village of Lakewood Board of Trustees, of the applicant's sediment and erosion control plan in accordance with the provisions of this subsection. All new building permit applications involving a site less than one acre shall require a sediment and erosion control plan approval, including new structures, new uses, expansions of existing structures, excavation operations and legal conversions of existing buildings to other uses, except those specifically exempted below.
- (2) The Village of Lakewood Code Enforcement Officer shall refer any application required by this Code to the Village of Lakewood Board of Trustees for its review and approval when and if such project may directly impact a body of water, stream, creek, wetland and/or waterway and additionally, to any project (including the structure on the project premises) exceeding 20,000 square feet of soil disturbance.

C. Exempt Uses.

The following land use activities are exempt from the requirements of this Code, unless otherwise required as a condition of a separate village approval:

- (1) Development creating less than 2,500 square feet of land disturbance in total.
- (2) Normal building maintenance, including the repair or maintenance of structural members.
- (3) Incidental landscaping or grading (less than 2,500 square feet).
- (4) Interior alterations that do not substantially change the nature or use of a residential, commercial or industrial structure.
- (5) Exterior alterations or additions to an existing residential or commercial structure, which do not substantially change its nature or use, and will not increase the gross floor area of the existing structure by more than 15% in total within any five year period.
- (6) Any change of use where no change to the building footprint or site is proposed.
- (7) Projects involving less than 2,500 square feet of land disturbance shall not be exempt from the provisions of this Code if any water course flows through or is adjacent to the project or the project contains wetlands or is adjacent to a designated wetland area.

D. Conditions of Approval.

Prior to the approval of a building permit governed by this Code, the Code Enforcement Officer shall determine if the applicant's plan will sufficiently address the following requirements:

- (1) There shall be no soil particles exiting any construction site by any means; including wind, water and vehicles exiting the property as a result of the excavation or construction.
- (2) Compacted gravel or stone driveways shall be completed before any other work commences. Soil particles on public roadways from vehicles exiting the work site shall be cleaned up every 4 hours or as necessary.
- (3) Water runoff resulting from activities both during and after construction shall not flow into any neighboring and/or adjacent properties, water bodies, waterways, wetlands or allowed to pool or cause erosion.
- (4) At a minimum, all construction sites shall install and maintain sufficient erosion control measures and install and stabilize a single access entrance as per the erosion control plan. On

steep sites (slope of 12% or greater whether prior to, during or after construction) or where storm water runoff or sediment may directly impact the waterway, the Village of Lakewood may require the applicant to provide a sediment and erosion control plan designed by a certified licensed professional engineer, registered landscape architect, registered architect or licensed design professional. The responsibility for the submission and the cost of such plan shall be the applicant's.

- (5) In the review of the applicant's plan, the Village of Lakewood shall use a guide line for analyzing and either approving or disapproving the plan the New York State Standards and Specifications for erosion and Sediment Control Manual.

E. Inspection.

Prior to, during and subsequent to construction under this plan, the applicant shall allow the Village of Lakewood Code Enforcement Officer to inspect the site to determine if the applicant has sufficiently undertaken the measures to meet the requirements set forth in Section IV above.

F. New York State Permits.

In the event the applicant's project requires either a SPDES permit from New York State or a New York State DEC Storm Water Pollution Prevention Plan for sites disturbing one or more acres of soil, copies of said permit or permits shall be supplied to the Village of Lakewood.

G. Enforcement and Stop Work Orders.

The Village of Lakewood Code Enforcement Officer may issue a stop work order for violations of this Code. The persons receiving a stop work order are required to halt all land development activities and address the violations leading to the stop work order. The stop work order will be in effect until the Code Enforcement Officer confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address the stop work order in a timely manner may result in civil, criminal or monetary penalties in accordance with Section VIII below.

H. Penalties.

Any person or entity in violation of this code shall be subject to a monetary fine of \_\_\_\_\_. Each week continued violation shall constitute a separate additional violation.

I. Separability / Invalidity.

The invalidity of any provisions of the code shall not invalidate any other parts thereof.

J. Effective Date.

This Code shall become effective the date it is filed with the New York Secretary of State.

**§ 25-66. Public Tree Regulation.**

A. Purpose

The purpose of this ordinance is to promote a diverse, healthy and sustainable urban forest in order to provide for the general welfare of Lakewood's citizens. A healthy urban forest improves the quality of air and water, controls erosion, moderates air temperature, absorbs carbon, reduces noise, enhances appearance and increases property values. Public trees also define public spaces and create civic identity. This ordinance sets out measures to protect trees located on village property and on public rights of way from construction and other preventable damage; to establish conditions for long-term preservation and expansion of the urban forest.

B. Definitions.

Aggregate diameter: The combined diameter of a multiple trunk tree measured at breast height.

Caliper: The measure of a newly installed tree and is determined in the following manner – Caliper measurement of the trunk shall be taken six inches above the ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, the caliper should be measured at twelve inches above the ground.

Certified arborist: An arborist certified by a National or State Arborists Association, or any successor organization.

Diameter breast height (DBH): The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.

Drip line: A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to, the person removing a public tree or public shade tree.

Public Tree: Any tree located within any municipal right-of-way, park or other areas maintained by the village.

Remove (including removing and removal): The cutting down of any public tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a public tree, including, but not limited to, excessive or improper pruning.

Tree warden: The Village of Lakewood Highway Superintendent or designee.

- (1) Applicability: The terms and provisions of this article shall be administered by the tree warden and shall apply to any public shade tree and to any public tree located on land owned or managed by the Village of Lakewood.
- (2) Permission: No person other than the tree warden shall allow the removal, pruning or altering of a public tree without first obtaining permission from the tree warden.
- (3) Activities requiring permission: Permission shall be required prior to any of the following activities:
  - (a) Any exterior work that requires the removal of a public tree;
  - (b) Any construction on municipal property within the drip line of a public tree;
  - (c) Removal of a public shade tree.
  - (d) Construction within that portion of the drip line of a public shade tree that is located over the municipal right-of-way;
  - (e) Pruning or treatment for the benefit of the health, safety or overall well-being of a public tree, as deemed appropriate by the tree warden, by anyone other than the tree warden or his designee.
  - (f) Planting of a tree in the public right-of-way or on village property by anyone other than the tree warden or his designee;
  - (g) Pruning or altering of a public tree for the purpose of overhead utility line clearance;

(h) Affixing or hanging anything from a public tree.

C. Construction:

Construction activities on village-owned property and public right-of-ways under the drip line of a public tree are prohibited. Prohibited construction activities include, but are not limited to, trenching or grading, storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials, which are damaging to trees.

D. Public Tree Removal:

The tree warden shall notify the tree commission upon receipt of an application to cut down or remove a public tree, and no public tree shall be removed without approval of the tree commission, unless such removal of the tree(s) is necessary based on a determination by the tree warden that at least one of the following conditions are met:

- (1) The public tree is interfering with existing structure, utilities, streets, sidewalks or purposed necessary improvements, and there is no alternative to removal;
- (2) The public tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of public utility service, is causing drainage or passage problems upon rights-of-way, or poses a threat to pedestrian or vehicular safety;
- (3) The removal of the public tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified to the tree warden by a certified arborist.

E. Appeal:

Any person aggrieved by a decision of the tree warden may file an appeal with the mayor and tree commission. Said appeal must be in writing and must be received by the mayor or his designee within five (5) business days of issuance of the tree warden's decision. The mayor and tree commission shall make a final decision on the matter within thirty (30) days from the date of receipt of the appeal request. The mayor and tree commission shall include in the decision the rationale there for. No public trees shall be removed while an appeal is pending.

F. Emergencies:

A public tree or public shade tree may be removed as otherwise required by this section only if the tree warden determines that the condition of the public tree is hazardous and immediately endangers the public health, safety or welfare or causes an immediate disruption of public services such that immediate removal is required. If such determination is made, the tree warden may remove the tree or provide oral authorization for its removal, utilizing such professional criteria and technical assistance as he deems necessary.

G. Waiver:

The requirements of this section may be waived by the tree warden during the period of an emergency such as a tornado, windstorm, flood or other act of God.

H. Tree replacement:

The tree warden may require that replacement of a removed public tree in the manner required by the tree commission.

I. Payment in lieu of planting replacement tree(s):

In lieu of planting a replacement tree as provided in section (h) above, a person may make a

contribution to the tree replacement fund in an amount equal to the cost to replace the tree, which cost shall be determined by the tree warden who shall maintain on file the village's current tree planting costs.

J. Rules and regulations:

The tree warden is authorized to promulgate reasonable rules and regulations to implement administration and enforcement of this section.

K. Penalties:

Violations of this section shall be enforced by Section

**ARTICLE VII  
Administration**

**§ 25-67. Enforcement.**

This local law shall be enforced by the Code Enforcement Official, who shall be appointed by the Board of Trustees of the Village of Lakewood. The Board of Trustees shall have the authority to appoint an Assistant Code Enforcement Official to carry out all duties of the Code Enforcement Official in his absence and to assist the Code Enforcement Official in the performance of his duties. No zoning permit shall be issued by the Code Enforcement Official except where there is to be compliance with all provisions of this local law.

**§ 25-68. Duties of Code Enforcement Official.**

A. Duties not related to flood regulations. It shall be the duty of the Code Enforcement Official in connection with this local law to do the following:

- (1) Permits: issue zoning permits or refuse to issue the same and give the reasons for such refusal to the applicant in writing.
- (2) Records: keep a record of all applicants for permits and a record of all permits issued with a notation of all special conditions involved.
- (3) Fees: receive all required fees and deposit them with the Village Clerk.
- (4) Coordination: keep the Village Board, the Zoning Board of Appeals and Planning Board informed and advised of all matters, other than routine matters, in connection with this local law.
- (5) Reports: submit such reports as may be deemed necessary.
- (6) Assist applicants: whenever possible, to advise and assist persons applying for zoning permits with the preparation of their applications.
- (7) Violations: issue appearance tickets, assist in securing warrants, and assist in the prosecution of violators of the provisions of this local law.
- (8) Notices: serve all notices and/or appearance tickets that may be required to be served in connection with this law.
- (9) Fire Inspector: notify the Fire Inspector of all permits issued.
- (10) Amendment recommendations: make recommendations for keeping the Zoning Law and accompanying Map up-to-date.
- (11) Inspections: inspect new construction or changes in use during and/or after construction or change in use to ensure conformity with the provisions of this local law and other applicable laws.
- (12) Other duties: as directed by the Village Board.

B. Duties of the local administrator related to flood regulations shall include but not be limited to:

- (1) Permit application review. He shall:

- which prior law, engineering study
- (a) Review all development permit applications to determine that the requirements of this local law have been satisfied.
  - (b) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from approval is required.
  - (c) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this local law, “adversely affects” means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
    - [1] If there is no adverse effect, then the permit shall be granted consistent with the provisions of this local law.
    - [2] If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
  - (d) Review all development permits for compliance with the provisions of § 25-16D(5). Encroachments.
- (2) Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 25-16C, Flood district boundary, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 25-16D(4), in order to administer § 25-16D(6) Specific standards, and § 25-16D(7), Floodways.
- (3) Information to be obtained and maintained. He shall:
- and
- (a) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including the basement or cellar, of all new or substantially improved structures whether or not the structure contains a basement or cellar.
  - (b) For all new or substantially improved floodproofed structures:
    - [1] Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
    - [2] Maintain the floodproofing certifications required.
  - (c) Maintain for public inspection all records pertaining to the provisions of this local law, including variances, when granted, and certificates of compliance.
- (4) Alterations of watercourses. He shall:
- evidence Agency,
- (a) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit of such notification to the Regional Director, Federal Emergency Management Region II, 26 Federal Plaza, New York, New York 10278.
  - (b) Require that maintenance is provided with the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Interpretation of FIRM boundaries.
- special flood
- (a) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of hazard and actual field conditions.
  - (b) Base flood elevation data established pursuant to § 25-16C and/or § 25-66B, when available, shall be used to accurately delineate the areas of special flood hazard.

- (c) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the areas of special flood hazard when base flood elevations are not available.
- (6) Stop-work orders.
  - (a) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 25-88 of this local law.
  - (b) All floodplain development found noncompliant with the provisions of this local law and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 25-88 of this local law.
- (7) Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit of constructions and enable said inspector to certify that the development is in compliance with the requirements of either the development permit or the approved variance.
- (8) Certificate of compliance.
  - (a) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both or part thereof, hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this local law.
  - (b) All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the local administrator.
  - (c) All certifications shall be based upon the inspections conducted subject to § 25-65B(8) and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may be required as a condition of the approved permit.

**§ 25-69. Notice of Violation; Issuance of Summons.**

Whenever the Code Enforcement Official determines that there is or has been a violation of any provision of this law, including the codes adopted herein by reference, he shall give notice of such violation to the person, persons, or entities responsible therefore under this local law. Such notice shall be in writing and shall include a concise statement of the reason for its issuance. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by mail to the last known address of the person or entity upon which the same is served, or a copy thereof is handed to such person or persons, or a copy thereof is left at the usual place of abode or office of such person or entities. Notice may be given within or without the municipality. The notice shall also state the unless the violation is abated, removed, cured, prevented, or desisted from within ten (10) days of the date of service of such notice (exclusive of the date of service), a summons shall be issued of such violation. The Code Enforcement Official may, at the time he issues the notice, extend the period for compliance with the violation stated in the notice for a period in excess of the aforementioned ten (10) days if, in his judgment, the abatement, removal, prevention, cessation of, or cure of the condition violated cannot reasonably be effected within the 10-day period. In such cases, the Code Enforcement Official shall state such reasonably required extended period in the notice, which shall then be applicable instead of the aforesaid ten (10) days.

In the event that the violation is not abated, removed, cured, prevented, or desisted from or otherwise fully remedied within the 10-day period or within such other period as set forth in the notice, the Code Enforcement Official may ensure compliance with this local law by issuing a summons or appearance ticket against the person, persons, entity, or entities so notified.

Any person may also file a complaint with the Code Enforcement Official in regard to a violation of any provision of this local law. All such complaints must be in writing and shall be filed with the Code Enforcement Official, who shall properly record such complaint and immediately investigate.

**§ 25-70. Zoning permits.**

A. Permit requirements. No buildings, structures or lots shall be erected, added to, structurally enlarged or changed to another use until a permit has been issued. Clearly, permits are not required for interior modifications or home repairs or improvements meeting these conditions. Additionally, for uses not requiring permits as specified in the district regulation sections, said uses shall meet all zoning regulations.

B. Permit contents.

- (1) The application for a zoning permit shall be made on a form obtained from the Building Inspector. The form shall, as a minimum, contain the following:
  - (a) Applicant information: name, address, etc., of property owner.
  - (b) Property identification: street address and section/block/lot no.
  - (c) Project description, including purpose: proposed use.
  - (d) Construction type: height, family units, lot dimension, set backs, accessory buildings, etc.
  - (e) Other information: copy of Health Department permit, off-street parking, location wetlands, floodplains and need for curb cuts.
  - (f) Signature of applicant.
  - (g) A sketch drawn to scale showing the lot size, building location, setback, highways and any other necessary information.
  
- (2) A flood development permit shall be obtained before construction or development begins within any area of special flood hazard. Application for a flood development permit shall be made on forms furnished by the Code Enforcement Officer and may include but not be limited to plans, in duplicate, drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing:
  - (a) Application state. The following is required where applicable:
    - [1] Elevation in relation to mean sea level of the proposed lowest floor, including the basement or cellar, of all structures.
    - [2] Elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed.
    - [3] When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in §25-16D(3).
    - [4] A certificate from a licensed professional engineer or architect that the nonresidential floodproofing structure will meet the floodproofing criteria in §25-16-D(6).
    - [5] A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
  - (b) Construction stage. Upon placement of the lowest floor, or floodproofing by whatever administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct the supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed



professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

- C. Commercial zoning permit requirements. All applications for zoning permits for commercial building must contain information detailing drainage and landscaping plans, off-street parking, off-street loading and any other data the Zoning Board of Appeals deems necessary.
- D. Validity period. Zoning permits shall be valid for a one-year period only. Within one (1) year from the date that the zoning permit is granted, the exterior of the structure shall be completed, backfilling and rough grading will be accomplished and no new building materials will be stored outside. Upon expiration of the one-year period, a new zoning permit will be required in order not to be in violation of the Zoning Law.
- E. Notification of adjacent property owners. When a special use permit or variance is being requested, all property owners adjacent to the applicant's property shall be provided, by mail, a copy of the public hearing notice, while other property owners which may be affected by the proposal may be notified if it is deemed appropriate due to the controversial nature of the project. Additionally, for applications not involving public hearings, potentially affected property owners may be notified, by mail, if it is deemed appropriate. Where a notification is mandatory, it shall take place at least ten (10) days prior to the public hearing. Failure of any property owner to receive such notice where reasonable attempts have been made shall not be a basis for invalidating such a zoning permit nor of contesting the actions of the Code Enforcement Officer, Board of Appeals, Planning Board or the Municipal Board in regard to the issuance or withholding of such permit.
- F. Decisions.
  - (1) All decisions to grant or deny a zoning permit shall be made in writing within thirty (30) days from the time that the completed permit form is submitted along with full payment of the required fee.
  - (2) The decision form shall, as a minimum, including a project description, location information, reference to section of the Zoning Law which would not be complied with and a description of alternatives open to applicants who are turned down.

**§ 25-71. Schedule of fees.**

The schedule of fees shall be as follows:

<b>Use</b>	<b>Fee</b>
Single-family homes, seasonal homes	\$ 40.00
Duplex	\$ 80.00
Apartment, per unit	\$ 140.00
Accessory structures	\$ 80.00
Land use not involving structures	\$ 100.00
Swimming Pools	\$ 100.00
Billboards	\$ 100.00
Commercial Use	\$ 160.00
Temporary Use (storage unit)	\$ 20.00/day
* Maximum Fee	\$ 240.00
Temporary Use (retail)	\$ 50.00/day
* Maximum Fee	\$ 350.00
All others	\$ 40.00
Permit requiring a public hearing, in addition to permit fee	\$ 100.00
Uses requiring no zoning permit	\$ 0.00

**ARTICLE VIII**  
**Nonconforming Uses**

**§ 25-72. Continuation of existing use.**

The lawful use of any building or land existing at the time of the enactment of this local law may be continued although such use does not conform to the provisions of this local law. However, all legally preexisting uses which do not conform to specific provisions of this local law shall not be required to comply with these provisions unless it is specifically stated within this local law that they must comply within a certain reasonable time period.

**§ 25-73. Alteration of structures.**

- A. Unsafe structures. Nonconforming buildings damaged by fire, wind and other catastrophic causes, as well as structures declared to be unsafe due to general dilapidation, may be restored or rebuilt for the nonconforming use it was used for last. Unsafe structures cannot be restored or rebuilt if it would result in a use which is more nonconforming than the structure was prior to becoming unsafe. When the unsafe condition was caused by fire, wind or any catastrophic causes, the permit must be applied for within six (6) months from the date of the fire, etc. Otherwise, the zoning permit need not be granted, as decided by the Municipal Board.
- B. Alterations of structures. A nonconforming structure may be added to or altered during its life to an extent of up to fifty percent (50%) of the market value of the building, as long as the alterations do not cause the structure to be more nonconforming. If the alterations are made to bring the building into conformity with all provisions of this local law, then the fifty-percent rule does not apply. Alterations above fifty percent (50%) shall be allowed if all conditions of this local law are met.

**§ 25-74. Prior approved construction.**

Nothing herein contained shall require any change in plan, construction or designed use of a building for which shall have been diligently carried on within three (3) months of the date of such permit.

**§ 25-75. Discontinuation of nonconforming use.**

Whenever a nonconforming use has been voluntarily discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this local law.

**§ 25-76. Displacement.**

No nonconforming use shall be extended or enlarged to displace a conforming use on the property or adjacent property.

**§ 25-77. District boundary change.**

Whenever the boundaries of a district or zone shall be changed so as to transfer an area from one district or zone to another district or zone of a different classification, the provisions of this Article shall also apply to any uses made nonconforming as a result of the change.

**§ 25-78. Nonconforming yard changes.**

A permitted use which is not in conformance with yard requirements, e.g., setbacks, etc., may be removed and replaced with another structure (same use) which is equal to or more in compliance with the yard requirements without going through area variance procedures. The Code Enforcement Officer shall determine the applicability of this section to specific cases.

**§ 25-79. Use changes.**

- A. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.
- B. A legal nonconforming use may be changed to another nonconforming use which is of such a character so as to be equal or less of a nuisance and more in conformance with the Zoning Law requirements. The Zoning Board of Appeals shall make all determinations as to what new nonconforming uses would be allowable through the normal use variance procedures. (See section on variances.)

**ARTICLE IX**  
**Zoning Board of Appeals**

**§ 25-80. Creation.**

A Zoning Board of Appeals is hereby created. Said Board shall be appointed and shall function in accordance with the enabling local law. Said Board shall consist of five (5) members. The Board may prescribe for its affairs.

**§ 25-81. Procedures.**

- A. Duties. The Zoning Board of Appeals shall act in strict accordance with procedures specified by law and by this Zoning Law. The major duties of the Board shall be to hear and decide on variance requests as well as to interpret the meaning of the Zoning Law as requested.
- B. Format for requests. All requests shall be in writing on forms prescribed by the Zoning Board of Appeals. Specific provisions of the Zoning Law shall be referred to and, as a minimum, the following information shall be provided by the person requesting the variance/interpretation:
  - (1) Property identification.
  - (2) Project description.
  - (3) Drawing of sufficient detail to provide needed information sufficient to decide on the request.
  - (4) Reasons for permit denial.
  - (5) Proof of unnecessary hardship or practical difficulties.
  - (6) Hearing information.
- C. Referral to Planning Board. On an optional basis, the Zoning Board of Appeals may request, in writing, a recommendation by the Planning Board. The failure of the Planning Board to submit said report shall be deemed to be an approval of the appeal or interpretation in favor of the applicant.
- D. Hearings. All hearing procedures shall be in accordance with appropriate laws with respect to notices, timeliness, etc.
- E. Decisions. Every decision of the Zoning Board of Appeals shall be by resolution, each of which shall contain a full record of the findings. Decisions shall be made in a timely manner in accordance with state law.
- F. Time requirements. All appeals to the Zoning Board of Appeals for interpretations or variances shall be submitted to the Zoning Board of Appeals within thirty (30) days of the date of denial of the application.

**§ 25-82. Interpretation of provisions.**

The Zoning Board of Appeals shall have the power to interpret the meaning of this Zoning whenever called upon by the Municipal Board, Code Enforcement Officer or an aggrieved part. This shall include the power to reverse any order, requirement, decision or determination of an administrative official or board. This interpretive power shall include the determination of district boundary lines.

**§ 25-83. Variances.**

- A. Reasons for variances. The Zoning Board of Appeals has the authority to vary or modify the strict letter of the Zoning Law where a literal interpretation would cause practical difficulties (area variances) or unnecessary hardships (use variance).
- B. Applicability and limitations.
- (1) The Zoning Board of Appeals can decide appeals from a person who feels aggrieved by a decision of the Code Enforcement Officer.
  - (2) The Zoning Board of Appeals may reverse, affirm or modify special use permit decisions made by the permitting board utilizing the variance procedure.
  - (3) The Zoning Board of Appeals has absolutely no power to amend the Zoning Law and must exercise great care to ensure that its rulings do not, in effect, amend the Zoning Law.
- C. Basis for granting area variances.
- (1) Area variances provide relief of a dimensional nature, e.g., lot shape or grade, and must be based on practical difficulty. The burden of proof is on the applicant, and, if relief is warranted, it should be the minimum necessary.
  - (2) The following five (5) determinations must be considered in order to decide if practical difficulty is present:
    - (a) How substantial the variation is in relation to the requirements of the Zoning Law.
    - (b) The effect of the proposal on increased population density and governmental facilities, e.g., fire, water, etc.
    - (c) Whether a substantial change in the character of the neighborhood or a detrimental effect on adjoining properties would take place.
    - (d) Whether the difficulty can be eliminated by some other reasonable alternative other than a variance, e.g., add room to the other side of the house.
    - (e) Will justice be served in allowing the variance.
  - (3) The fact that the practical difficulty was self-imposed does not disqualify the applicant from being granted an area variance.
  - (4) If a property owner will suffer significant economic injury by strict interpretation of the area standards and practical difficulties are present, then the area variance can only be denied based on health, safety or general welfare reasons.
- D. Basis for granting use variances.
- (1) Use variances provide relief to an applicant who is denied through application of the Zoning Law by the Municipal Board the right to use land or structures in a certain manner since the use is not listed as an allowable use in the Zoning Law. In order to be granted the use variance, the applicant must prove that unnecessary hardship exists, and this is accomplished by showing all of the following:
    - (a) The land in question cannot yield a reasonable return if used only for a purpose allowed in the district. This does not mean that profits will necessarily be maximized.
    - (b) The use requested by the variance will not alter the essential character of the neighborhood and be detrimental to properties in the vicinity.
    - (c) The plight of the applicant is due to unique circumstances and not to the general conditions on the neighborhood.
  - (2) In the case of a use variance, if the hardship is self-imposed then the variance should, generally speaking, be denied. An example of this would be the purchase of property which is not appropriate for the proposed use.

- E. In granting any variance, the Zoning Board of Appeals shall prescribe and conditions that it deems to be necessary or desirable and are in compliance with the intent of the Zoning Law. The decisions must be written in the form of a resolution and must state, in detail, the reason for granting or denying the variance and the conditions imposed.
- F. Temporary variances. The Zoning Board of Appeals may issue, for uses which are of a temporary nature, a variance. Said variance shall clearly state the conditions of the variance to include when it shall terminate, the possibility of renewal and other conditions deemed necessary.
- G. Flood variances.
  - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (2) Variances shall only be issued upon:
    - (a) A showing of good and sufficient cause.
    - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
    - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public as identified in Subsection G(3), which follows; or conflict with existing local laws or ordinances.
  - (3) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this local law and:
    - (a) The danger that materials may be swept onto other lands to the injury of others.
    - (b) The danger to life and property due to flooding or erosion damage.
    - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
    - (d) The importance of the services provided by the proposed facility to the community.
    - (e) The necessity to the facility of a waterfront location, where applicable.
    - (f) The availability of alternative location for the proposed use which are not subject to flooding or erosion damage.
    - (g) The compatibility of the proposed use with existing and anticipated development.
    - (h) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
    - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
    - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
    - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
  - (4) Conditions for variances.
    - (a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 25-79G(3)(a) through (k) has been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.
    - (b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or

the State  
procedures set  
(c) Variance  
functionally

Inventory of Historic Places, without regard to the contributing structures  
forth in the remainder of this section.

Variations may be issued by a community for new construction and substantial  
improvements and for other development necessary for the conduct of a  
dependent use, provided that:

[1] The criteria of Subsection G(4)(a), (b), (c) and (d) of this section are met.  
[2] The structure or other development is protected by methods that minimize flood  
damages during the base flood and create no additional threat to public  
safety.

(d) Variations shall not be issued within any designated floodway if any increase in flood  
levels during the base flood discharge would result.

(5) The Municipal Clerk shall maintain the records of all appeal actions, including technical  
information, and report any variations to the Federal Insurance Administration upon request.

(6) Any applicant to whom a variance is granted for a building with the lowest floor below the base  
flood elevation shall be given written notice that the cost of flood insurance will be  
commensurate with the increased risk resulting from lowest floor elevation.

**§ 25-84. Mandatory referral.**

- A. Applicability. Before issuing a special use permit or granting a variance affecting any real property lying within a distance of five hundred (500) feet of the boundary of this municipality or from the boundary of any existing or proposed county or state park or other recreation area or from the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or from the channel owned by the county or for which the county has established channel lines or from the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, the matter shall be referred to the Chautauqua County Planning Board.
- B. Response time. Within thirty (30) days after receipt of a full statement of such referred matter, the Chautauqua County Planning Board, to which referral is made, or an authorized agent of said agency shall report its recommendations thereon to the Board of Appeals, accompanied by a full Chautauqua County Planning Board fails to report within such period of thirty (30) days, the Board of Appeals may act without such report. If the Chautauqua County Planning Board disapproved the proposal or recommends modification thereof, the Board of Appeals shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one (1) of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.
- C. Report of action. Within seven (7) days after final action by the Board of Appeals, modifications or disapproval of a referred matter, the Board of Appeals shall file a report of the final action it has taken with the Chautauqua County Planning Board, which had made the recommendations, modifications or disapproval.

**ARTICLE X  
Planning Board**

**§ 25-85. Appointment.**

The municipal Board shall appoint a Planning Board consisting of five (5) members as prescribed by law.

**§ 25-86. Duties.**

The Planning Board shall have the following duties with respect to the Zoning Law:

A. Recommendations.

- (1) Optional reports. The Planning Board shall, after review and consideration, submit reports on any matter referred to it.
- (2) Mandatory recommendations. The Planning Board shall submit recommendations to the appropriate Board on all applications for all special use permits, site plan reviews and amendments to the Zoning Law.
- (3) Failure to report. When the Planning Board fails to make a recommendation/report, it shall be deemed that the Planning Board has no objection to the request or proposal.

B. Review. The Planning Board shall review the Zoning Law at least every (5) years and make written recommendations for amendments, should they be necessary.

**ARTICLE XI  
Municipal Board**

**§ 25-87. Duties.**

A. Duties. The Municipal Board shall have the following duties with respect to this Zoning Law:

- (1) Special use permits. To issue or deny special use permits after a public hearing for any of the uses for which this Zoning Law requires the obtaining of such permits.
- (2) Site plan review. To issue or deny site plan permits after a public hearing for uses for which this local law requires a review.
- (3) Amendments. From time to time on its own motion or on petition or on recommendation of the Planning Board, amend, supplement or repeal the regulations and provisions of this local law after public notice and hearing.

B. Notices. The Board, by resolution adopted at a scheduled meeting, shall fix the time and place of a public hearing on the proposed amendment and special use permit and site plan review and cause notice to be given in accordance with law.

**§ 25-88. Special use permits.**

A. General provisions. The special uses listed in this Zoning Law for which conformance to additional standards are required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements and standards set forth herein, in addition to all other requirements of this Zoning Law. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

B. Standards. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it and the location of the site with respect to the existing or future streets giving access to it shall be such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations or lights than would be the operations of any permitted use.

C. Conditions.

- (1) In the granting of special use permits, the Permitting Board shall attach such conditions and safeguards as it deems appropriate under this local law.
- (2) The supplemental section of this local law entitled "General Conditions" will be referred to and used as a checklist of possible conditions to be attached to the special use permit being requested, and this section is not all-inclusive.

- (3) A plan for the proposed development of a site for designated special use shall be submitted with an application for a special use permit and the plan shall show the location of all buildings, lots, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the permitting board deems necessary.
- D. Procedures. The permitting board shall act in strict accordance with procedures, specified by law and by the Zoning Law with regard to public hearings, notices, publications, etc.
- E. Expiration. A special use permit shall be deemed to authorize only one (1) particular use and shall expire if the special use shall cease for more than one (1) year for any reason.
- F. Existing violations. No special use permit shall be issued for a property where there is an existing violation of this local law.

**§ 25-89. Site plan review.**

- A. Purpose Site plan review has the purpose of specifying for all involved parties what the intended design, arrangement and uses of the land shall consist of so as to optimize the physical, social and economic effects on the community for specified types of development.
- B. Administration.
  - (1) Permits. The permitting board shall be responsible for a site plan review of all proposals which involve commercial development of three thousand (3,000) square feet or more of floor space or residential development with five (5) or more units, one acre or more, and alteration/conversion of existing structures greater than 5,000 square feet gross building area. Additionally, the permitting board may require site plan reviews for any other significant project which, in the board's opinion, could have a major impact with respect to traffic safety, health, neighborhood character, municipal cost, environment, nuisances or aesthetics. The review process shall take place concurrently with the special use permit process.
  - (2) Expiration. A site plan review shall be deemed to authorize only one (1) particular use and shall expire if the use shall cease for more than one (1) year.
  - (3) Hearings. An attempt shall be made to integrate, where appropriate, the site plan review requirements into the required special use permit hearing, thus eliminating the need for two (2) hearings.
  - (4) Referral. The permitting board shall, within seven (7) days of receipt of the complete application, submit to the Municipal Board a request for an opinion on any proposed project involving over one (1) acre of land or for any other project where the Municipal Board requests the right to give an opinion. The permitting board shall wait fourteen (14) days for a response prior to acting on the matter.
  - (5) Decision requirements. Within forty-five (45) days of receipt of the complete application, the permitting board shall render a decision to the Code Enforcement Officer. If no decision is made within the forty-five-day period, the site plan shall be considered approved. The permitting board shall notify the applicant, in writing, of its decision with the reasons for the decision specified. Where the Municipal Board provides an opinion, the permitting board shall only override that decision with a majority plus one (1) vote of the quorum of members present.
- C. Information required. Sketches drawn to approximate scale will be prepared by the applicant, where feasible to display the following information:
  - (1) Administration, legal and other miscellaneous information.
    - (a) Project title and date.
    - (b) Name, address and telephone number of applicant, owner (if different), contractor, architect and other major involved parties.
    - (c) Construction schedule to include phasing and the completion date.



- (d) Performance bond to include amount, public improvements covered and bond approval.
  - (e) Location, width and purpose of all easements, public land holdings, leases covenants, deed restrictions or any other unique land restrictions.
  - (f) Record of all applications for permits from the federal, state or county governments to include approval status.
- (2) Existing man-made features to be shown.
- (a) Boundary lines of project site as well as adjacent properties.
  - (b) Ownership pattern of all adjacent parcels.
  - (c) Existing structures on project site and adjacent property to include location, dimensions, height and use. Decks and accessory structures should also be shown, as well as structures.
  - (d) Roadways to include public roads, private roads or driveways on the site, on and off street parking, load/unload zones, access and egress, pedestrian pathways or sidewalks. Width and elevations should be included.
  - (e) Utilities shall be identified to include location and size of water, sewer, drainage pipes, telephone, electric, gas and television cable. Additionally, any solar systems should be identified.
  - (f) Miscellaneous features to include fences, signs, outside lighting, public-address systems, storage areas and retaining walls shall be shown.
  - (g) Fire lanes and fire hydrants, if any exist, should be displayed.
  - (h) Recreational areas, both on the site and adjacent, should be displayed to include public and private facilities. Decks, pools, tennis courts, etc., should be included.
  - (i) Trash or garbage collection areas shall be identified.
  - (j) Services such as banks, schools, retail or service districts should be identified.
  - (k) Zoning district boundaries shall be identified.
  - (l) Other information deemed necessary by the permitting board.
- (3) Existing natural features to be shown.
- (a) Topographic features with a minimum interval of ten (10) feet but preferably two (2) feet. areas of steep slope should be delineated.
  - (b) Geographic features such as depth to bedrock and load bearing capacity for large development proposals.
  - (c) Hydro geological features, including drainage and runoff patterns, flood hazard areas, wetlands, depth to groundwater and drainage capacity of soil.
  - (d) Landscaping and vegetative cover, including wooded areas, significant isolated trees, ground cover, shrubs and other similar features. Buffers should be identified.
  - (e) Watercourses to include lakes, streams or ponds.
  - (f) Archaeologically significant areas.
  - (g) Significant viewscapes should be identified.
  - (h) Other information deemed necessary by the permitting board.
- (4) New proposal features.
- (a) Referring to the existing man-made and natural features above, provide a description/sketch of any changes that are being proposed.
  - (b) Include construction materials proposed for use.
  - (c) Provide design features.
  - (d) List the positive and negative effects for each existing feature listed above, e.g., traffic to be generated and the effects it will have on specific roadways.

**§ 25-90. Referral to Planning Board.**

- A. Upon receipt of full applications for special use permits, site plan review or zoning amendments, the Municipal Board shall advise the Planning Board of the proposed request/change.
- B. The Planning Board shall review the proposed special use permit/site plan or amendment and return its recommendation. The Municipal Board may act without receipt of a recommendation from the Planning Board.

**§ 25-91. Mandatory referral.**

Under General Municipal Law § 239 (1 and m), certain special use permits and amendments must be referred to the County Planning Board prior to local decisions being made. See Article IX, Zoning Board of Appeals, for procedures to be followed. (see section on mandatory referrals.)

**ARTICLE XII  
Penalties for Offenses**

**§ 25-92. Penalties for offenses.**

- A. Whenever a violation of this local law occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and immediately investigate. However, the Municipal Board shall be responsible for ensuring compliance with this local law when it is brought to its attention that a violation, may exist even though no formal complaint is filed.
- B. Any violation of any provision of this local law by any person shall be punishable by fine or other penalties of up to but not exceeding the maximum allowed by §2-2006 of the Village Law and /or subsequent enactments. Each week’s continued violation shall constitute a separate additional violation.
- C. Any structure found not compliant with flood insurance requirements of this local law for which the developer and/or owner has not applied for and received an approval variance will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

**ARTICLE XIII  
Conflicts; Severability; Repealer; Effect; Liability**

**§ 25-93. Conflicts with other legislation.**

In their interpretation and application, the provisions of this local law shall be held to be the minimum requirement, adopted for the promotion of the public health, safety or the general welfare. Whenever the requirements of this law are at variance with other requirements of this local law or the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

**§ 25-94. Severability.**

The invalidity of any provisions of this local law shall not invalidate any other park thereof.

**§ 25-95. Repealer.**

Any previously adopted Zoning Law or regulations of the municipality, together with all changes and amendments thereto, are hereby repealed and declared to be of no effect.

**§ 25-96. When effective.**

This local law shall take effect ten (10) days after the date of its publication and posting as required by law.

**§ 25-97. Warning and disclaimer of liability.**

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. The flood regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. The flood regulations shall not create liability on the part of the municipality, any officer or employee thereof or the Federal Emergency Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made there under.