

CHAPTER 1
ADMINISTRATIVE PROVISIONS

Section

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§10-1-1: SHORT TITLE:

This Title shall be known and may be cited as the *ZONING ORDINANCE OF THE VILLAGE OF TOWER LAKES*. (Ord. 66-7, 12-19-1966)

§10-1-2: SCOPE:

Except as provided by this Title except after obtaining written permission from the enforcing officer, it shall be unlawful within the corporate limits of this Village:

- (A) To establish any use of a building, structure, or land, either by itself or in addition to another use.
- (B) To expand, change, or reestablish any nonconforming use.
- (C) To erect a new building or structure or part thereof.
- (D) To rebuild, structurally alter, add to or relocate any building or structure or part thereof.
- (E) To reduce the open space or plot area required for a building or structure, or to include any part of such open space or plot area as that required for an adjoining building or structure.

(Ord. 66-7, 12-19-1966)

§10-1-3: DEFINITIONS:

For the purpose of this Title and future amendments thereto, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word “building” shall include the word “structure” and the word “shall” is mandatory and not directory.

ACCESSORY BUILDINGS OR OUTBUILDINGS AND USES: An accessory building or outbuilding is a subordinate building or a portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

BASE FLOOD ELEVATION: The base flood elevation as defined in Chapter 6 of Title 5 of the Village Code, and specifically in Sections 5-6-3 and 5-6-4 thereof.

BASEMENT: A story having part but not less than one-half ($\frac{1}{2}$) of its height below grade. A basement shall not be counted as a story.

CHURCH: Any building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of public or private assemblies for religious services or for other purposes and associated accessory uses, other than municipal buildings.

DORMER: A roofed structure containing a vertical window and projecting out of a roof. All dormers shall not exceed twenty five percent (25%) of the length of the side of the building from which the dormers project, and the dormers shall each be separated from one another by a minimum of five feet (5') clear.

DWELLINGS OR RESIDENCES: Any building or portion thereof, but excluding a trailer, which is designed and used exclusively for residential purposes.

FAMILY: Excepting domestic employee, any number of persons related by blood or marriage, or not to exceed three (3) persons not so related, living together in a room or rooms comprising a single housekeeping unit shall be considered a family.

FENCE: Shall include any barrier, whether or not affixed to the ground, but the following structures shall not be construed to be fences:

- (A) Retaining walls of rock or other masonry construction.
- (B) Decorative screens not exceeding four feet (4') in height which are: 1) located at least twenty feet (20') from any lot line parallel and adjacent to a road, and 2) do not enclose an area, and 3) do not extend more than thirty feet (30') in total length, and 4) provided, however, that not more than one such decorative screen shall be located within a distance of two hundred feet (200') of another such decorative screen on the same zoning lot.
- (C) Enclosures for garden(s) which: 1) are located at least ten feet (10') from any lot line parallel and adjacent to a road, street, or other public right-of-way; 2) do not enclose an area exceeding four hundred (400') square feet; 3) do not exceed six feet (6') in height at the highest point from the existing ground level; 4) are not located on, over, or within any septic field or on, over, or within any Village or public utility easement; 5) with the exception of posts, are constructed entirely of chicken wire or deer fencing of plastic mesh or netting, which wire, mesh or netting shall be black, dark green, or dark brown in color, and shall be consistently open so as to permit viewing; and 6) do not consist of or include in whole or in part any chain link fencing, electric-charged fencing or wires, barbed wire, snow fencing, razor or concertina wire, corrugated metal, or picket or stockade wooden fencing.
- (D) Enclosures for pets or children which: 1) are located in rear yards only and attached to residences, and 2) do not exceed thirty feet (30') on any one side, and 3) do not enclose an area exceeding two hundred (200) square feet, and 4) do not exceed six feet (6') in height at the highest point, and 5) are constructed of materials of a decorative nature or, if constructed of wire, are screened from view by shrubbery to the full height of the enclosure, and 6) have covers constructed of an open type of material, if covers are desired, and 7) have no point closer than twenty feet (20') from any perimeter lot line;

- and 8) no such enclosure shall be allowed which impairs an adequate supply of light or air to adjacent property or alters the essential characteristics of the neighborhood.
- (E) Swimming pool enclosures as permitted by any Village ordinance regulating swimming pools, now in force or as hereafter adopted or as hereafter amended.
 - (F) Any enclosure used as an accessory use in relationship to community waterworks in order to provide security for community waterworks, or to provide security for any portion thereof. Any enclosure used for such purpose shall be a permitted accessory use in any zoning district in which community waterworks are a permitted use.
 - (G) Any structure specifically permitted by Paragraphs A, B, C, D, and/or E above: (i) shall not obstruct any line of sight for vehicle(s) and/or for any pedestrian(s) on a public right-of-way; and (ii) shall be maintained in a safe and structurally sound condition, in good repair and in a neat and clean condition; and (iii) shall not impair an adequate supply of light or air to adjacent property or alter the essential characteristic(s) of the neighborhood in which it is located.

FRONT YARD: A yard or open space extending the full width of a lot or parcel between any building or structure and the right-of-way line of any street which is designated and used as the street address of the lot or parcel by the U.S. postal service or by the Village.

GRADE: The elevation of the surface of the ground at a particular location on a lot or parcel.

GRADE, AVERAGE EXISTING: The average grade as calculated from the grade elevations at the four (4) points on a lot or parcel where an imaginary line parallel to the front and rear yard setback lines and touching the proposed structure intersects the required side yard setback lines. The four (4) corners shall be indicated on the engineering plans presented to the enforcing officer. For the purpose of determining the average existing grade, the grades shall be measured prior to any work on the lot or parcel related to the permit in question and without regard to any regrading or other changes in the topography of the lot or parcel done within the past twenty four (24) months prior to the date of the permit application, which regrading or other changes might otherwise affect the calculation of the average existing grade.

HEIGHT: The building height shall be the vertical distance measured from the average existing grade on a lot or parcel, to the ridge of the building roof or to the highest point of any other structure. The height of any building or other structure shall not exceed:

- (A) In the A-2 residential zoning district, twenty seven feet (27’);
- (B) In all other zoning districts, two and one-half (2^{1/2}) stories above a basement story, or thirty five feet (35’) in height, whichever is lower;
- (C) Notwithstanding the foregoing restrictions, in any zoning district, antennas serving a single building may be up to sixty feet (60’) in height; provided, however, all such antennas and supports shall be of metal or synthetic material and shall be permanently affixed to and mounted upon the main building on the premises;
- (D) Chimneys shall not exceed the building height by more than five feet (5’).

HOME OCCUPATION: Any activity, including, but not limited to, a hobby or avocation, carried out for gain or support by a resident conducted as an incidental use in the resident's dwelling unit. The fact that a particular occupation or profession does not directly or indirectly impose a charge or receive a fee or other remuneration is not in itself determinative of whether that activity falls within the definition of “home occupation”.

IMPERVIOUS SURFACE: Any hard surface or man-made surface or area, which surface or area does not readily absorb or retain water, including but not limited to any building roof, porch, gazebo, parking and/or driveway area, graveled area, sidewalk, animal enclosure, and/or recreation area.

LOT OF RECORD: A lot which as a part of a subdivision, the map of which has been recorded in the office of the Recorder of Deeds or registered in the office of the Registrar of Titles or a parcel of land, the deed to which was so recorded or so registered prior to the date of the adoption hereof.

NONCONFORMING USE: A building or lot lawfully occupied by a use at the time of passage of the original zoning ordinance or any amendment thereto, which does not conform to the use regulations of the district in which it is situated as such use regulations are prescribed by the zoning ordinance and amendments thereto.

PROFESSIONAL OFFICE: Whether or not incidental to a residence or the occupation of a resident and including the offices of doctors or practitioners, ministers, architects, landscape architects, lawyers, authors, artists, musicians, and other professional occupations.

RECREATION AREA: Any impervious surface used for active or passive recreational purposes, including but not limited to any tennis court, basketball court, swimming pool, spa, hot tub, sport court, or skateboard ramp.

RENTAL PREMISES: All or part of a dwelling unit or related accessory structure being rented, offered for rent, or otherwise let to person(s) other than the owner(s) of the property in question.

RIDGE: The highest point on the ridge boards of a gable, hip, or gambrel roof; the highest point of the coping in case of a flat roof; and the highest point of the deck line in the case of a mansard roof.

SETBACK: The establishment of a minimum horizontal distance or “yard”, as defined in this Title. Any required setback shall be measured from and as nearly as practical at right angles from the lot line, right-of-way line, or base flood elevation. Required setbacks shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this Title.

SHORT-TERM RENTAL: The accessory use and/or occupancy for a period of less than three (3) months of a dwelling unit or related accessory structure pursuant to a written or oral agreement which permits and/or provides for occupancy of all or part of such structure by any person other than the owner(s) thereof, or an immediate family member of the owner(s) thereof, and whether or not the permission of such occupancy is in exchange for consideration therefor. Notwithstanding anything contained in this definition to the contrary, a short-term rental shall not include any of the following: (1) any occupancy of a residence by an immediate family member or by a regular member of the household of the owner(s), (2) any occupancy by a “house-sitter” where all of the following conditions are applicable: such arrangement was or is initiated by the owner(s) of the residence for the purpose of maintaining the safety and security of the residence and/or to provide for the care of one or more pet(s) of the owner(s) while the owner(s) are out of town, and the owner(s) of the residence receive no rent or other compensation from the house sitter(s) other than such house sitting services, or (3) one or more than one consecutive lease extension(s) of any length

immediately following any lease between the same parties where the original lease did not fall within the definition of a “short-term rental”.

STORY: That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF: A space under a sloping roof which has the line of intersection of roof and wall space not more than three feet (3') above the top floor level, and in which space not more than sixty percent (60%) of the floor area is finished off for use.

STRUCTURAL ALTERATIONS: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

STRUCTURE: Anything constructed or erected, that use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing: advertising signs, billboards, backstops for tennis courts, and pergolas; radio and TV antennas other than for home reception.

TRAILER: Any structure used for living, sleeping, business, or storage purposes, which is, has been, or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term “trailer” shall include camp car and house car.

YARD: An open area on a lot situated between a building or other structure and a designated line, such as a lot line, the right-of-way of a road or street, or the base flood elevation of a body of water. A required yard is based upon measuring the minimum setback as provided by this Title as nearly as practical at right angles from the lot line, right-of-way line, or the base flood elevation, as the case may be. Required yards shall be unoccupied and unobstructed from the ground upward except as may be specifically provided in this Title.

(Ord. 2007-003, passed 2-19-2007; Amd. Ord. 2008-011, passed 1-19-2008; Amd. Ord. 2009-005, passed 07-20-2009; Amd. Ord. 2017-06, passed 06-19-2017; Amd. Ord. 2017-09, passed 10-16-2017; Amd. Ord. 2018-09, passed 08-20-18)

§10-1-4: RESERVED. (Ord. 70-73, passed 4-20-1970; Amd. 2001 Code; Amd. Ord. 2017-06, passed 06-19-2017)

§10-1-5: EXCEPTIONS:

The following use is permitted in any District:

If permitted by any franchise ordinance of this Village (now existing or hereafter adopted or amended) and required for service to the Village and adjacent areas: poles, wires, cables, conduits, vaults, laterals or any other similar distributing equipment of a public utility.

(Ord. 66-7, passed 12-19-1966; Amd. 2001 Code; Amd. Ord. 2009-005, passed 07-20-2009; Amd. 2014 Code)

§10-1-6: OTHER RESTRICTIONS:

This Title shall not nullify the more restrictive provisions of covenants, agreements, resolutions, other ordinances or laws but shall prevail notwithstanding such provisions which are less restrictive.

(Ord. 66-7, 12-19-1966; Amd. 2001 Code)

§10-1-7: BOARD OF APPEALS:

The President of the Village Board shall appoint a Board of Appeals consisting of seven (7) members, each of whom shall be a resident of the Village, designating one member as Chairman. Said appointment shall be as follows: one for one year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years, and one for seven (7) years, the successor to each member so appointed to serve for a term of five (5) years. It shall be the duty of the Board of Appeals to hear and decide any appeal from an order, decision, or interpretation of the enforcing officer, or any matter referred to him or upon which he is required to pass under this ordinance, as prescribed by statute.

(Ord. 66-7, 12-19-1966; Amd. 2001 Code)