

KALKASKA CODE-LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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COMMERCIAL AND INDUSTRIAL STANDARDS

§ 150.01 FIRE LIMITS

The fire limits of the village shall be all that portion of the village within the commercial and industrial zone C and I section.

('67 Code, § 8.01)

Cross-reference:

Zoning map, see Appendix, Ch. 152

§ 150.02 CONSTRUCTION STANDARDS

All new buildings or any addition or alteration to present commercial or industrial structures within the fire limits shall be constructed in accordance with abridged building code published by the Building Officials Conference of America and current requirements of National Electrical Code.

('67 Code, § 8.02)

§ 150.03 MOVEMENT OF BUILDINGS

No building or structure constructed in a manner other than that required by § 150.02 shall be moved to any place within the fire limits or moved from one point within the fire limits to another point within the fire limits.

('67 Code, § 8.03)

§ 150.04 REPAIR OF BUILDINGS

Any building or structure located within the fire limits and constructed in a manner other than that required by this subchapter shall not be repaired or rebuilt after being partially destroyed by fire, decay, or other cause when the damage shall equal or exceed one-half of the value thereof.

('67 Code, § 8.04)

§ 150.05 CHIMNEY CONSTRUCTION

(A) *Construction standards.* All chimneys in new buildings or in additions or alterations to existing buildings, within the village limits, either within or without the fire limits, shall be in accordance with *Abridged Building Code* published by the Building Officials Conference of America, Inc. adopted September 16, 1948.

(B) *Fire hazards.* All chimneys in any building or structure found, by the building inspectors to be unsafe and a fire hazard, shall cease to be used within 30 days after notice of such condition is mailed to the property owner or occupant of the premises.

('67 Code, § 8.06)

§ 150.06 PERMITS

(A) No person shall construct or repair, or cause to be constructed or repaired, any building or structure or any addition or alteration thereof within the fire limits without a permit issued by the building inspectors.

(B) No building or structure shall be moved within or into the fire limits without a permit issued by the Building Inspectors.

('67 Code, § 8.07)

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§ 150.07 ENFORCEMENT

The County Building Inspector, Plumbing Inspector, Electrical Inspector, and Mechanical Inspector shall perform all building code inspections and building permit inspections within the village.

('67 Code, 8.12)

NATIONAL BUILDING CODE

§ 150.30 INCORPORATION BY REFERENCE

Pursuant to the provisions of § 9 of the Construction Code Act (Public Act 230 of 1972, being M.C.L.A. § 125.1501 et seq.), the State Construction Building Code and supplement, most current edition is hereby adopted by reference, subject to the modifications contained in this subchapter.

('67 Code, § 8.09)

§ 150.31 REFERENCES TO STATE, MUNICIPALITY, MUNICIPAL CHARTER, AND LOCAL ORDINANCES

References in the revised addition of the National Building Code to “state” and “(name of state)” shall mean the state of Michigan; references to “municipality” and “(name of municipality)” shall mean the Village of Kalkaska; references to the “municipal charter” shall mean the charter of the village; and references to “local ordinances” shall mean this code of ordinances and any other applicable ordinance of the village.

('67 Code, § 8.10)

§ 150.32 AMENDMENTS AND DELETIONS; ADDITIONS

The following chapters, sections, and subsections of the National Building Code are hereby amended or deleted as set forth in additional chapters, sections and subsections that are added as indicated. The following chapter and section numbers refer to like numbers of chapters and sections of the National Building Code.

('67 Code, § 8.11)

Editor's note:

There is no legislation setting forth amendments, deletions or additions to the National Building Code adopted in this subchapter. This section is reserved for future legislation.

BOCA BASIC PLUMBING CODE

§ 150.50 ADOPTION BY REFERENCE

Pursuant to the provisions of § 8 of the Construction Code Act (Public Act 230 of 1972, being M.C.L.A. § 125.1501 et seq.), the village hereby adopts by reference the BOCA Basic Plumbing Code, most current edition, and the BOCA Basic Plumbing Code Accumulative Supplement, most current edition.

('67 Code, § 8.15)

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NATIONAL ELECTRIC CODE

§ 150.60 ADOPTION BY REFERENCE

Pursuant to the provisions of § 8 of the Construction Code Act (Public Act 230 of 1972, being M.C.L.A. § 125.1501 et seq.), the village hereby adopts by reference the National Electric Code, most current edition.

DANGEROUS AND UNSAFE BUILDINGS

§ 150.70 DEFINITION

For the purpose of this subchapter the following definition shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS AND UNSAFE STRUCTURES. Any building or structure which has any of the following defects or is in any of the following conditions:

(1) Whenever any door, aisle, passageway, stairway or other means of exit does not conform to the approved fire code of the village, it shall be considered that the dwelling does not meet the requirements of this subchapter.

(2) Whenever any portion has been damaged by fire, wind, flood or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before the catastrophe and is less than the minimum requirements of this subchapter and the building code of the village for a new building or similar structure, purpose or location.

(3) Whenever any portion or member or appurtenance is likely to fall or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(4) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by this subchapter or the building code of the village.

(5) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reasons, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way.

(6) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.

(7) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral act.

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(8) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the Health Officer, or is likely to work injury to the health, safety or general welfare of those living therein.

(9) Whenever any building becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

§ 150.71 CONDITION DECLARED A PUBLIC NUISANCE

All dangerous and unsafe structures within the terms of § 150.70 are hereby declared to be public nuisances, and shall be repaired, altered, vacated or demolished as provided in this subchapter.

§ 150.72 MAINTAINING OR PERMITTING EXISTENCE OF DANGEROUS OR UNSAFE BUILDING OR STRUCTURES

It shall be unlawful to maintain or permit the existence of any dangerous and unsafe building or structure in the village; and it shall be unlawful for the owner, occupant or agent thereof, or any person in custody and/or possession of any dangerous and unsafe building or structure to permit the same to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it remains in a dangerous condition.

§ 150.73 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION

The Village Manager, Building Inspector, the Fire Chief and/or the Health Officer of the village, or anyone specifically deputized therefore by one of the officers, shall enter upon any land or into any building or structure for the purpose of and to inspect, and shall inspect the same, whenever he shall have cause to believe or fear that said building, structure, shed, fence or other man-made structure is a dangerous and unsafe building and structure as in § 150.70.

§ 150.74 NOTICE OF UNSAFE AND DANGEROUS CONDITION

(A) When the whole or any part of any building or structure is found to be in a dangerous or unsafe condition as set forth in this subchapter, the village, through its Village Manager, Building Inspector, Fire Chief and/or Health Officer, shall issue a notice of unsafe and dangerous condition.

(B) Notice of unsafe and dangerous condition shall be directed to the owner or agent registered with the village. If no owner or agent has been registered, then the notice of unsafe and dangerous condition shall be directed to each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.

(C) Notice of unsafe and dangerous condition shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice of unsafe and dangerous condition is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe.

(D) It shall be imperative that the time and place of a hearing shall be contained within the notice of unsafe and dangerous condition. The person to whom such notice of unsafe and dangerous condition is directed need not make any demand for the hearing provided in this subchapter.

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§ 150.75 HEARING OFFICER TO SERVE NOTICE

(A) A hearing officer shall be appointed by the Village Council, on the recommendation of the Village Manager to serve at the pleasure of the Village Council.

(B) When a notice of unsafe and dangerous condition is issued, the officer so issuing that notice, whether he be the Village Manager, Building Inspector, Fire Chief and/or Health Officer of the village, shall file a copy of the said notice of unsafe and dangerous condition with the Hearing Officer.

(C) Service of the notice of unsafe and dangerous condition, or of any other notice made by the village officer pursuant to this subchapter may be made in the following manner:

(1) By personally delivering a copy of the notice to the person or persons to whom it is directed within the village.

(2) By delivering a copy of the notice by registered mail, addressed to the last known post office address of the addressee, and deliverable to the addressee only, with return receipt demanded, which service by registered mail shall be considered personal and not substituted service.

(3) If a person to whom the notice is directed cannot be found or does not have a known post office address or is not a resident of this village, then service of the notice may be made by publication in a newspaper published or circulating in the county in which the property or premises described in the notice is situated, once in each week for three successive weeks, the last publication to be made at least ten days before the date of performance specified in the notice.

§ 150.76 HEARINGS

(A) At the hearing, the hearing officer shall take testimony of the officer who caused the notice of unsafe and dangerous condition to be issued, and/or his representatives, and the owner of the property and any interested party.

(B) The hearing officer shall render his decision by either closing the proceedings or ordering the building or structure to be demolished or otherwise made safe.

(C) If the hearing officer determines that the building or structure should be demolished, or otherwise made safe, he shall so order the same, fixing a time in the order for the owner or agent to comply therewith.

(D) Should the owner or agent fail to appear or neglect or refuse to comply with the order of the hearing officer, the hearing officer shall file a report of his findings and a copy of his order with the Village Council, and request that the necessary action be taken to demolish or otherwise make safe the building or structure.

(E) A copy of the report and order of the hearing officer shall be served on the owner or agent of the building or structure in question, in the manner as heretofore set forth.

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§ 150.77 HEARING BEFORE VILLAGE COUNCIL

(A) If a report is filed pursuant to § 150.74, the Village Council shall conduct a hearing, reviewing the findings, report and order of the hearing officer.

(B) A date, time and place shall be fixed for the Village Council hearing, reviewing the findings, report and order of the hearing officer.

(C) Notice of the time and place of the Village Council hearing shall be given the owner or agent in the manner as heretofore set forth, at least ten days prior to such Village Council hearing.

(D) At the Village Council hearing, the owner or agent shall be given the opportunity to show cause why the building or structure in question shall not be demolished or otherwise made safe.

(E) The Village Council, by a majority vote of all its members shall either approve, disapprove or modify the order of the Hearing Officer for the demolition or making safe of the building or structure in question.

(F) The Clerk of the village, upon the issuance of the final decision or order of the Village Council, may make and file for record in the office of the County Register of Deeds in which the land, building or premises described in the order is situated a notice of pendency of proceedings under the order, which filing shall be constructive notice to subsequent grantees, mortgagees, tenants or other occupants of the lands of the pendency of abatement proceedings as well as of court proceedings which shall later be instituted as provided in this act, and the order and court proceedings shall not be affected by a subsequent transfer of ownership, possession, or encumbrance of the lands, buildings or premises.

(G) In case the title to any lands upon which a building constituting an unsafe and dangerous condition is situated should become vested in the state or any political subdivision of this state, or any department, board or other agency thereof, either before or after the issuance of the final decision or order of the Village Council, such building or fire hazard shall be subject in all cases to the provisions of this subchapter.

§ 150.78 VILLAGE MAY REMEDY CONDITION; LIEN

(A) In the event that the village performs or causes to be performed the demolition or making safe of such buildings or structure there shall be a lien against the real property and it shall be reported to the assessing officer of the village.

(B) The Assessing Officer of the village shall assess the cost of demolition or repair against the property on which the building or structure in question is located.

(C) The owner or party in interest in whose name the property appears upon the last tax assessment records of the village shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within 30 days after mailing by the Assessor of the notice of the amount thereof, the Assessor shall add the same to the next tax roll of the village and the same shall be collected in the same manner and in all respects as provided by law for the collection of taxes by the village.

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§ 150.79 JUDICIAL REVIEW

An owner or party in interest aggrieved by any final decision or order of the Village Council, under § 150.77, may appeal the decision or order of the Village Council to the County Circuit Court, by filing a petition for an order of superintending control within 20 days from the date of the decision of the Village Council.

§ 150.80 ADMINISTRATIVE LIABILITY

No officer, agent or employee of the village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this subchapter. Any suit brought against any officer, agent or employee of the village as a result of any act required or permitted in the discharge of his duties under this subchapter shall be defended by the village until the final determination of the proceedings as set forth in this subchapter.

§ 150.99 PENALTY

Any person, firm or corporation that violates any section of this chapter is responsible for a Municipal Civil Infraction as prescribed in Section 10.99(A).

CHAPTER 151: SIGNS

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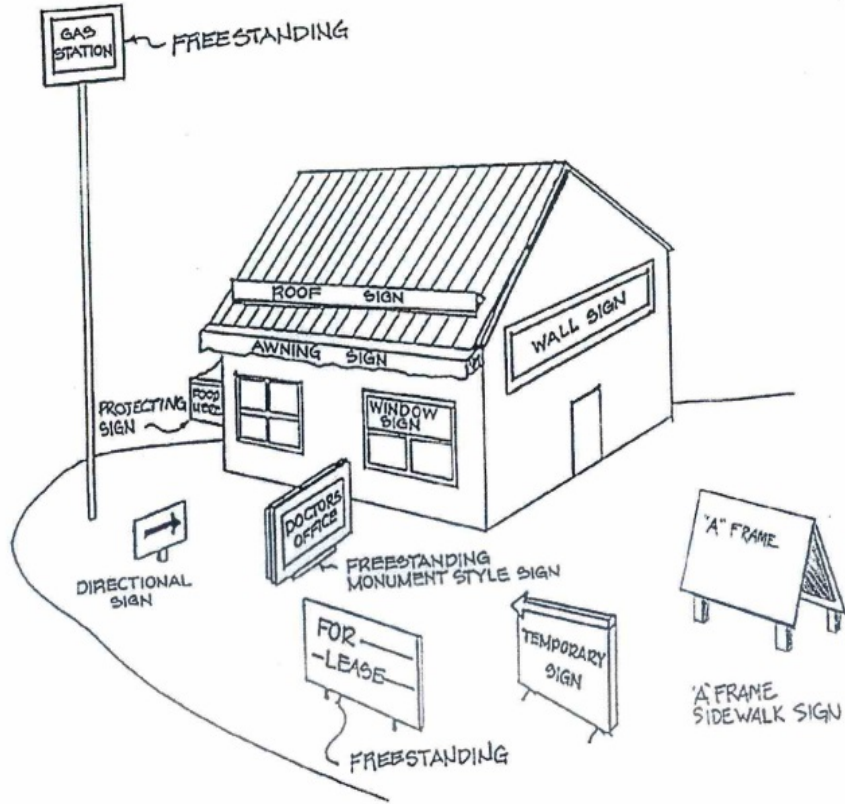
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§ 151.01 PURPOSE

- A. This chapter is intended only to regulate the time, place and manner of signage for the public health, safety and welfare including but not limited to improving and preserving an aesthetic benefit to the residents and visitors of the Village.
- B. The purpose of this chapter is to provide a framework within which the identification and informational needs of all land uses can be harmonized with the desires and aesthetic standards of the general public. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry and other activities in attaining their identification and informational objectives. It is a basic tenet of this section that unrestricted signage does not benefit either the private sector or the community at large. The following goals shall be considered for all signage:
- (1) Recognize the mass communications needs of both businesses and other parties.
 - (2) Protect property values and neighborhood character.
 - (3) Create an attractive business climate.
 - (4) Promote pedestrian and traffic safety by reducing sign distractions, obstructions, and other hazards.
 - (5) Promote pleasing community environmental aesthetics.
- C. *Exemption.* This chapter does not regulate indoor signs visible from the outside of a building, except illuminated signs that blink, flash or flutter.
- D. *Compliance with other regulations required.* Compliance with this chapter does not assure compliance with other county, state, or federal sign regulations, nor does the issuance of a sign permit grant permission to the applicant to place signs on any property including road rights-of-way other than property owned or otherwise legally under the control of the applicant. The issuance of a sign permit only assures the applicant that the sign meets the requirements of the Village of Kalkaska zoning code.
- E. *Interpretation of Ordinance Provisions.* The Zoning Official for the Village of Kalkaska is hereby directed and authorized to interpret and enforce all the provisions of this chapter. The decisions of the Zoning Official shall be final unless appealed to the Board of Zoning Appeals as detailed in sections 151.51 or 151.52.

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§ 151.02 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY: Subordinate or incidental to and on the same lot, or on a contiguous lot in the same ownership, as the building or use being identified or advertised.

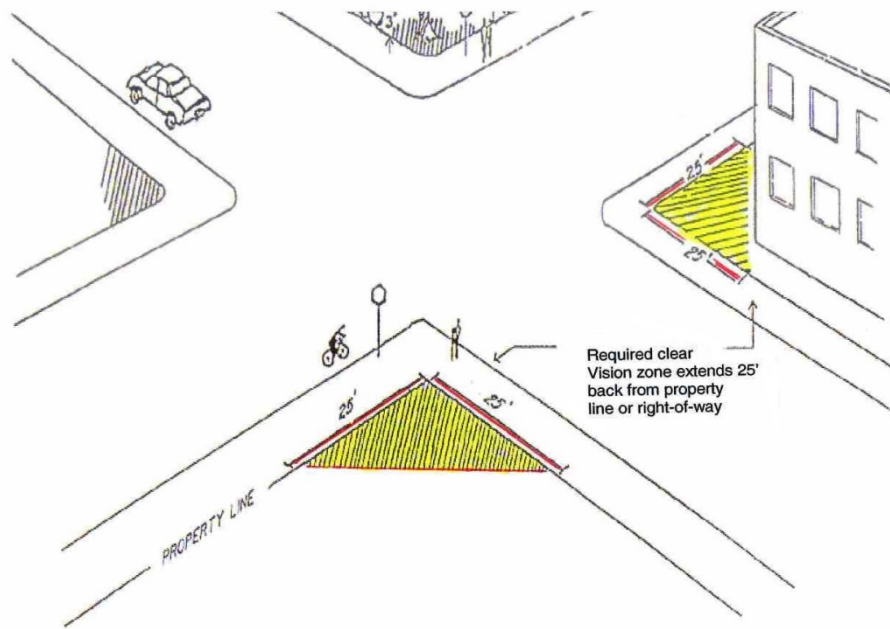
APPLICANT: Any person owning or having an interest in the subject property or a person representing the property owner.

AWNING: A retractable shelter supported entirely from the exterior wall of a building.

BANNER: A fabric, plastic, or other sign made of non-rigid material, with or without a supporting framework that is designed to be attached at the top and bottom edges to a pole or building.

CANOPY: A roof-like cover (such as canvas) over a framework that is attached to an exterior wall of a building.

CLEAR VISION AREA: The triangular area at street corners and driveways that shall be kept free of signage for the purpose of visibility and safety for pedestrians and vehicles traffic. The clear vision area shall include the entire right-of-way area (row). The clear vision area at a corner extends twenty-five (25) feet from a corner and fifteen (15) feet from the edge of a driveway in each direction.



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DISPLAY FACE: See *SIGN FACE*.

ELECTRIC SIGN: Any sign containing electrical wiring, but not including signs illuminated by exterior light sources, such as floodlights.

FRONTAGE- BUILDING: The wall or side of the building that faces the front street assigned to the physical address of the building.

FRONTAGE-STREET: That side of a lot that is adjacent to a street.

FRONTAGE-YARD: A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street right of way and the main building or any projections of permitted uncovered steps, unenclosed balconies, or unenclosed porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

HEIGHT: The vertical distance measured from the elevation of the nearest sidewalk, or in the absence of a sidewalk within 25 feet, then from the lowest point of the finished grade on the lot upon which the sign is located and within 25 feet of the sign, to the uppermost point on the sign or sign structure.

ILLUMINATION- DIRECT: Lighting by means of an unshielded light source (including neon tubing) that is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

ILLUMINATION-INDIRECT: Lighting by means of a light source that is directed at a reflecting surface in such a way as to illuminate the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for purposes other than sign illumination, e.g., parking lot lights or lights inside a building which may silhouette a window sign but which are primarily installed to serve as inside illumination.

ILLUMINATION-INTERNAL: Lighting by means of a light source which is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are made of a translucent material.

INTERIOR COMMERCIAL UNIT: A business that is entirely within a building and has no building frontage.

LIGHT SOURCE: Includes neon, fluorescent or similar tube lighting, the incandescent bulb (including the light-producing elements therein), and any reflecting surface, which, by reason of its construction or placement, becomes in effect the light source.

LOT: A portion or parcel of land, whether part of a platted subdivision or otherwise, occupied or intended to be occupied by a building or use, and appurtenances thereto.

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LOT WIDTH: The width of the property containing the yard frontage.

MAINTENANCE: The replacing, repairing or repainting of a portion of a sign structure; periodic changing of bulletin board panels; or renewing of copy which has been made unacceptable or unusable by ordinary wear and tear, weather, or accident. The replacing or repairing of a sign or sign structure which has been damaged to an extent exceeding 50% of the appraised replacement cost (as determined by the Zoning Official) shall be considered as “maintenance” only when the sign conforms to all of the applicable provisions of this chapter and when the damage has been caused by an act of God or violent accident.

MANSARD ROOF: A roof-like structure that hangs down over the wall of a building. The portion of a mansard roof that extends in front of the wall of a building may be considered as wall area. Wall signs shall be permitted on this portion of the structure.

MARQUEE: A permanently roofed structure attached to and supported by a building and projecting over an entrance, as to a theater or hotel.

OWNER: A person, firm, corporation, or other legal entity recorded as such on the records of the County Register of Deeds, including a duly authorized agent or attorney, a purchaser devisee, fiduciary, or a person having a vested or contingent interest in the property in question.

PUBLIC ENTRANCE: An entrance to a building or premises that is customarily used or intended for use by the general public. Fire exits, special employee entrances, loading dock entrances not generally used by the public, and the like shall not be considered as public entrances.

ROOF: The cover of any building, including the eaves and similar projections.

ROOF LINE: The highest point on any building where an exterior wall encloses usable floor space, including floor area for housing mechanical equipment. “Roof line” shall also include the highest point on any parapet wall, providing the parapet wall extends around the entire perimeter of the building.

SIGN: Any writing, letter, word, symbol, pictorial representation, decoration, form, or structure which, by reason of its shape, color, message, wording, symbol, design, illustration, motion, or otherwise, attracts or is designed to attract attention or communicate a visual message.

SIGN FACE: The surface of a sign upon, against, or through which the message is displayed or illustrated.

SIGNS, TYPES OF: Signs differentiated by structure, location and message conveyed include the following:

- (1) *AWNING OR CANOPY SIGN:* A non-ridged fabric or Plexiglas (or similar material) structure that is attached to a building by supporting framework that includes a business identification message, symbol or logo.

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- (2) *BANNER*: A fabric, plastic, or other sign made of non-rigid material, with or without a supporting framework that is designed to be attached at the top and bottom edges to a pole or building.
- (3) *BULLETIN BOARD*: A sign used for the purpose of notification to the public of an event or occurrence of public interest, for example, a religious service, political rally, civic meeting, or other similar event.
- (4) *CONSTRUCTION SIGN*: A Temporary sign displayed at a construction site that identifies the contractor involved in the project on the premises.
- (5) *ELECTRONIC MESSAGE CENTER SIGN*: A sign that displays its message via a lighted digital face with the capacity to change the sign's message by computer control.
- (6) *FREESTANDING SIGN*: A sign which is permanently supported by one or more columns, uprights, poles, or braces extended from the ground or from an object on the ground, or a sign which is erected on the ground, providing that no part of the sign is attached to any part of any building structure or other sign. The term "freestanding sign" shall include any "pole sign", "pylon sign", "pedestal sign", monument sign and "ground sign". A portable sign is not a "freestanding sign".
- (7) *GARAGE SALE SIGN*: A sign or signs used to advertise a garage sale, yard sale, estate sale, or an auction.
- (8) *IDENTIFICATION SIGN*: The term "identification sign" shall include the following:
 - a) A sign that establishes the identity of an occupant by listing his or her name and business or professional title;
 - b) A sign that establishes the identity of a building or building complex by name or symbol only.
 - c) A sign that indicates street address or combines place and street address.
 - d) A sign that identifies an area in the village that, by reason of development, natural features, historical occurrences, or common reference has or will become a landmark in the village.
 - e) A sign that identifies a subdivision by name or symbol.
 - f) A sign that establishes the identity of occupants of an area of highly concentrated commercial or industrial development, for example, a shopping plaza or industrial park.

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- (9) *INFORMATIONAL/COURTESY SIGN*: A sign which provides information of a non-advertising or courtesy nature, including but not limited to the following: “No Smoking,” “Restroom,” “No Solicitors,” “Self-Service,” “Open”, “Vacancy,” “No Vacancy” and “Credit Cards Accepted.”
- (10) *JOINT IDENTIFICATION SIGN*: A freestanding sign that serves a common or collective identification for two or more businesses or industrial uses. The sign may contain a directory to the uses as an integral part thereof or may serve as general identification only for developments such as shopping centers, industrial parks and the like.
- (11) *MARQUEE SIGN*: A sign depicted upon, attached to, or supported by a marquee as defined in this section.
- (12) *MONUMENT SIGN*: A monument (or ground sign) is a detached, freestanding sign with low overall height whose sign surface is attached to a proportionate solid base or structural frame.
- (13) *OFF-PREMISES ADVERTISING SIGN*: A sign which advertises or directs attention to a business, commodity, service, or activity conducted, sold, or offered elsewhere than on the same lot upon which the sign is located or within the same building in which the sign is located.
- (14) *ON-PREMISES SIGN*: A sign that advertises goods, services, facilities, events, or attractions or directs attention to the business on the premises where the sign is located.
- (15) *PORTABLE SIGN*: A sign designed to be easily relocated to different sites to advertise, mark, or otherwise draw attention to various types of businesses. The designation includes portable sidewalk signs, trailer-mounted signs with changeable letters and any other sign with attached wheels or with an axle.
- (16) *PROJECTING SIGN*: A sign that projects from and is supported by the wall of a building where the exposed face of the sign is in a plane perpendicular to the plane of the wall.
- (17) *PYLON SIGN*: A pylon (or pole) sign is a detached, freestanding sign permanently installed in or on the ground, supported by uprights, braces, columns, poles, or other vertical members which are not attached to a building, and where the bottom edge of the sign face is generally located a minimum distance above grade.
- (18) *REAL ESTATE SIGN*: A sign indicating the availability for sale, rent, or lease of the specific lot, building, or portion of a building.

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- (19) *ROOF SIGN*: A sign painted on or attached to the roof of a building, supported by poles, uprights, or braces, extending from the roof of the building or projecting above the roofline of the building.
- (20) *SUSPENDED SIGN*: A sign suspended from the ceiling.
- (21) *TEMPORARY SIGN*: A sign, banner, or similar device or display which is intended for a temporary period for the purpose of announcing a special event, advertising, or directing persons to a developing subdivision or other land or building development. The sign may be constructed of cloth, canvas, cardboard, wallboard, plywood, or other light temporary material with or without a structural frame.
- (22) *TRAFFIC DIRECTIONAL SIGN (PRIVATE)*: A sign erected on private property for the purpose of guiding vehicles and pedestrian traffic.
- (23) *VEHICLE-MOUNTED SIGN*: A sign displayed upon a trailer, van, truck, automobile, bus, railroad car, tractor, semi-trailer, or other vehicle, whether or not such vehicle is in operating condition.
- (24) *WALL SIGN*: A sign displayed on the wall of an enclosed building, where the exposed face of the sign is in a plane parallel to the plane of the wall. A sign erected upon or against the side of a roof having an angle of 45° or less from the vertical shall be considered to be a wall sign and shall be regulated as such.
- (25) *WAYFINDING SIGN*: An off-premises sign that is part of a Village-sponsored and coordinated program for the purpose of facilitating tourist transit to local destinations as designated and recognized by the Village's wayfinding sign program.
- (26) *WIND SIGN*: A sign consisting of one or more banners, flags, or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by natural wind or breeze.
- (27) *WINDOW SIGN*: A sign or merchandise that is painted on, applied or attached to a window. The sign can be seen through the window from beyond the property line.

SIGN, ILLEGAL NONCONFORMING: A sign which, at the time of its erection, was in violation of any provision of this chapter or any other ordinance of the village.

SIGN, LEGAL NONCONFORMING: Any sign which, at the time of its erection, was lawfully erected and maintained prior to the enactment of this chapter and any amendments thereto, and which does not currently conform to all the applicable regulations and restrictions of this chapter.

SIGNS, NUMBER OF: For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements clearly organized, related, and composed to form a unit. Where matter is displayed in a random manner without

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organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

SIGN, STRUCTURE: Any supports, uprights, braces, or framework of a sign.

STREET RIGHT-OF-WAY LINE: A line running parallel to the centerline of a street that is ½ of the width of the right-of-way.

STRUCTURE: Anything constructed or erected with a fixed location on the ground above grade, but not including poles, lines, cables, or other transmission or distribution facilities of public utilities.

ZONING OFFICIAL: The Village Manager or other person charged with the administration and enforcement of this chapter.

ZONING CODE: The village zoning code (Chapter 152) together with all amendments thereto.

§ 151.03 SIGNS ALLOWED IN ALL DISTRICTS

A. The following signs shall be allowed in all districts without a permit:

- (1) House Numbers on a building that are legible from the street, and nameplates (fraternal, social, apartment and professional identifying the occupant or address of a parcel of land.
- (2) Memorial signs or tablets mounted on a building, such as those containing the names of buildings and the dates of construction.
- (3) “For Sale” signs attached to vehicles that are properly licensed, insured and parked unless restricted by other ordinances of the Village or the Uniform Traffic Code.
- (4) Flags or banners bearing the official design of a national, state, municipal, government institution or government organization. Flags or banners shall be displayed on a pole that is thirty (30) feet or less above the existing grade in the area.
- (5) Wayfinding Signs.
- (6) Traffic, or other municipal signs, also private traffic-control signs that conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
- (7) Signs identifying civic organizations, publicly owned or operated facilities, parks and playgrounds.
- (8) Election signs subject to the following:

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- a) Election signs shall be removed within ten (10) days following the election for which the sign pertains.
 - b) Election signs shall not be placed closer than one hundred (100) feet from any polling place entrance per Michigan Compiled Laws (MCL# 168.2e).
 - c) Election signs shall not exceed twelve (12) square feet in surface display area per side of a two-sided sign.
 - d) Election signs shall not be placed within any street right-of way or on Village property.
 - e) All election signs shall be not more than four (4) feet above the ground.
- (9) Real estate signs advertising the sale, lease or rental of the premises or part of the premises on which the sign is displayed, up to a total area of twelve (12) square feet per side of a two-sided sign for residential properties and thirty-two (32) square feet per side of a two-sided sign for commercial and industrial properties. Such signs shall be removed within fourteen (14) days after the sale, lease or rental is completed. Such signs shall not exceed one per parcel and must be contained within the confines of the parcel. No part of a real estate sign shall be more than four (4) feet in a residential zone, or six (6) feet in a commercial/industrial zone, above the average grade across the front of the property.
- (10) Temporary construction signs subject to the following:
- a) Total surface display area shall not exceed thirty-two (32) square feet.
 - b) The overall sign height shall not exceed eight (8) feet above the average grade of the frontage of the property.
 - c) Placement shall be wholly within the property boundaries to which the sign pertains.
 - d) The sign shall not be erected prior to issuance of a building permit for the proposed construction, and shall be removed upon issuance of a certificate of occupancy.
 - e) State and federally funded construction project sign requirements shall supersede any local regulations.
- (11) Trespassing, safety or caution signs not exceeding two (2) square feet in surface display area.

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- (12) Garage sale signs not exceeding six (6) square feet per side and shall be subject to the following:
- a) The top of freestanding garage sale signs shall be no more than two and one half (2 1/2) feet from the ground.
 - b) Garage sale signs shall only be placed on locations and premises other than the sale premises with the written permission of the owner of said location.
 - c) The sign shall contain the address and the dates of the sale.
 - d) All garage sale signs must be constructed of material suitable for display and safety and all letters or numbers shall be a minimum of three (3) inches.
 - e) Garage sale signs shall not be displayed more than twenty-four (24) hours prior to the start of the sale, and shall be removed on the same day that the sale ends.
 - f) Garage sale signs may be placed in the “clear vision area” (at street corners and driveways); however, if the Zoning Official (or his or her designee) determines the sign is creating a hazard, the sign will be removed without notice to the owner of the sign.
 - g) Garage sale signs are specifically prohibited in the public right-of-way, including attachment to the utility poles.
- (13) Signs which otherwise meet the requirements of this chapter may contain commercial or non-commercial messages.

B. The following signs shall be allowed in all districts only with a permit issued by the Village of Kalkaska:

- (1) Parking lot signs
- a) One directional sign at each point of ingress or egress shall be permitted. The sign may bear the sponsor's ad, name or trademark of the enterprise it is intended to serve. Private traffic-control or traffic-movement signs are permissible.
 - b) The surface display area per sign shall not exceed six (6) square feet.
 - c) The top of the sign shall not exceed six (6) feet above grade.

§ 151.04 SIGNS PROHIBITED IN ALL DISTRICTS

The following signs shall not be allowed in any district:

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- A. Signs that are not consistent with the standards of this chapter.
- B. Signs other than utility company signs affixed to power utility poles or other utility structures or fixtures.
- C. Real estate signs placed in the street right-of-way other than signs placed during an open house.
- D. Portable signs or signs mounted on trailers, except portable (A-frame) sandwich signs per Sections 151.22C and 151.23H.
- E. Signs located so as to interfere with the view necessary for motorists to proceed safely, through intersections or to enter onto or exit from public streets or private roads or driveways.
- F. Signs that are illegal under state laws or regulations and applicable local ordinance or regulations.
- G. Signs, except those established and maintained by municipal, county, state or federal governments, located in, projecting into, or overhead within a public right-of-way or dedicated public easement, unless the sign has been issued a permit by the agency having jurisdiction over that right-of-way.
- H. Signs on parked vehicles. Signs placed on or affixed to vehicles and/or trailers which are parked in a manner which makes them visible from a public right-of-way. However, this is not in any way intended to prohibit signs placed on or affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer. Nor does this provision restrict the use of for sale signs placed on vehicles, properly licensed and insured, unless otherwise prohibited by ordinance (e.g. new or used car dealers).
- I. Signs that revolve, rotate or move (other than barber poles).
- J. Signs that blink, flash, have fluttering light, or other illuminating device which has the effect of changing light intensity, brightness or color, excepting electronic message centers (EMCs).
- K. Signs erected at the intersection of any street in such a manner as to obstruct free and clear vision; or any location where by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop", "look", "danger," or any word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic, both pedestrian and vehicular; or in any "clear visions area" as defined by this chapter.

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§ 151.05 SIGNS ALLOWED FOR CHARITABLE OR CIVIC SPECIAL EVENTS:

Signage shall be permitted for a temporary event primarily benefiting a charitable or civic cause. Signage for these events shall be allowed subject to the following criteria:

- A. A permit issued by the Village of Kalkaska shall be obtained prior to placing any special event signs within the Village Limits and shall expire 24 hours after the event.
- B. A maximum of three (total) wall and/or freestanding signs shall be allowed on the premises of the event.
- C. No sign used for such an event shall be larger than thirty-two (32) square feet in size per side of sign.
- D. All free-standing signs used for advertising a special event shall have no part of the sign more than six feet above the ground.
- E. Special event signs shall only be placed on locations and premises other than the event premises with the written permission of the owner of said location.
- F. All special event signs shall be constructed of material suitable for display and safety and all letters or numbers (except the information requested in the preceding paragraph) shall be a minimum of three (3) inches high.
- G. Special event signs shall not be displayed more than ten (10) days prior to the start of the event, and shall be removed within twenty-four (24) hours after the event ends.

§ 151.06 SIGN ILLUMINATION AND SIGNS CONTAINING LIGHTS

- A. Unless otherwise prohibited by this chapter, signs may be illuminated, if such illumination is in accordance with this chapter.
- B. No sign within 150 feet of a residential zone may be illuminated between the hours of 11:00 p.m. and 6:00 a.m.
- C. Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.
- D. Except, as herein provided, illuminated signs are not permissible in the residential zoning districts.

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- E. Illuminated tubing or strings of lights that outline property lines, sales areas or similar areas are prohibited.
- F. No sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity.
- G.

§ 151.07 COMPUTATION OF SIGN AREA

- A. The sign face area of a sign shall be determined by including the entire area within a single continuous perimeter of not more than eight straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework or bracing that is clearly incidental to the display itself.
- B. If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign face area.
- C. With respect to two-sided, multi-sided or three-dimensional signs, the sign face area shall be computed by including the total of all sides designed to attract attention or communicate information that can be seen at any one time by a person from one vantage point, without otherwise limiting the generality of the foregoing:
 - (1) The sign face of a double-faced, back-to-back sign shall be calculated by using the area of only one side of the sign, so long as the distance between the sign face on one side and the sign face on the reverse side does not exceed eighteen (18) inches.
 - (2) The sign face area of a double-faced sign constructed in the form of a “V” shall be calculated by using the area of only one side of the sign (the larger side if there is a size difference), so long as the interior angle of the “V” does not exceed 30° and at no point does the distance between the backs of the sides exceed three (3) feet.

§ 151.08 SIGN MAINTENANCE

- A. All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition. Signs shall be maintained so as to be free of peeling paint or paper, fading, staining, rust, broken display faces, defective parts or other condition which impairs legibility. Sign supports, braces and anchors shall be maintained in such a manner as to not cause a hazard. All signs must be installed in accordance with the most recently adopted building construction code.

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- B. Any flag, banner or pennant or balloon that is dirty, tattered, torn, worn, or faded shall be removed.
- C. Whenever the use of a building or property ceases or a building is vacated for more than thirty (30) consecutive days, the signage associated with the prior use shall be removed.
- D. Any structural parts of a sign that remain unused for more than three hundred sixty-five (365) consecutive days shall be removed.

PERMIT REQUIREMENTS

§ 151.11 PERMIT REQUIRED FOR SIGNS

- A. Except as otherwise provided in section 151.03, no sign may be constructed, erected, moved, enlarged, illuminated or altered unless a sign permit has been issued in accordance with the provisions of this chapter and has not expired or been revoked by the Zoning Official. Repainting or changing the message of a sign in and of itself shall not be considered an alteration.
- B. The following provisions shall apply for the application, issuance, administration and enforcement of signs requiring a permit as set forth herein:
 - (1) Applications shall be submitted to the Village Zoning Official through the Village Clerk's office. Each application shall be accompanied by the necessary submittals (drawings, site plan, set back notation, artwork) on an official form supplied by the Village Clerk.
 - (2) All applications shall be submitted along with the appropriate filing fee as determined by a resolution of the Village Council.
 - (3) The Village Zoning Official shall review the application and render a decision within fifteen (15) days after submittal of the application. The Zoning Official shall notify the applicant of the approval or denial of the permit. Any conditions of approval, or reasons for denial shall be written on or attached to the application. All permits issued expire 120 days after the date of issuance. If the sign has not been completed according to the permit within the 120 days, a new permit application will be required. Prior to expiration of permit, (1) 120-day extension may be authorized by the Zoning Official for extenuating circumstances.
 - (4) The Zoning Official may cancel, withdraw or revoke the permit at any time if the official determines that the terms and conditions of the permit or this section have been violated or have not been met.
 - (5) Signs for which a permit is required may be inspected periodically by the Zoning Official or designee for compliance with this chapter and all other village ordinances.

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- (6) Decisions of the zoning official regarding sign permits and applications may be appealed to the Zoning Board of Appeals. Applicants will follow the provisions of Section 151.41 of this ordinance with respect to an appeal or a request for a variance of the sign ordinance.

SPECIFICATIONS AND REQUIREMENTS FOR SIGNS BY ZONING DISTRICT

§ 151.21 SIGNS IN RESIDENTIAL DISTRICTS (R-1, R-1A, R-2, R-3, & R-4):

Any sign not expressly permitted is prohibited. Signs in residential districts zoned R-1, R-1A, R-2, R-3, & R-4 shall be permitted subject to the following limitations:

- A. Home occupation: One of the following options for signage is allowed that advertises a permitted use as a home occupation in a residential district:
 - (1) One non-illuminated freestanding sign. The sign shall not exceed four (4) square feet in total surface display area. No part of the sign shall exceed a height of four (4) feet above the average grade of the property. No freestanding sign shall be placed closer than ten (10) feet from the right of way (property line).

Or

 - (2) One non-illuminated wall sign. The sign shall not exceed four (4) square feet and shall be mounted flat on the front wall of the residence.
- B. Subdivision or residential development entry (including apartment complex): A permanent sign may be permitted by the Zoning official with the following conditions:
 - (1) The sign may be illuminated as provided for in this ordinance.
 - (2) The sign copy may include only the name of the development and the developer.
 - (3) The sign and structure shall be harmonious and appropriate in appearance with the existing and intended character of the general vicinity.
 - (4) The sign shall not exceed thirty-two (32) square feet.
 - (5) The sign shall not exceed six (6) feet above the average grade of the property.
 - (6) The entry structure surrounding the sign shall not exceed sixty (60) square feet and shall not extend more than six (6) feet above the average grade of the property.
- C. Multifamily building identification sign:

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- (1) One sign may be mounted flat against the main building identifying the apartment building that shall not exceed thirty-two (32) square feet or ten (10) per cent of the area of the wall on which it is attached (whichever is less). Such a sign may be illuminated as provided for in this ordinance.
 - (2) In the case of an apartment complex, each building is allowed one identification sign mounted flat against the building, not to exceed eight (8) square feet.
- D. For any other non-residential use that is a “use by right” as identified in 152.35(B) of the Code of Ordinances of the Village of Kalkaska:
- (1) One (1) freestanding sign shall be allowed per property. The sign shall not exceed thirty-two (32) square feet in surface display area per side. The sign shall maintain a minimum setback of ten (10) feet from the right-of-way (front property line). No part of the sign shall exceed a height of eight (8) feet above grade. Such a sign may be illuminated as provided for in this ordinance.
 - (2) One (1) wall sign shall be allowed per property. The sign shall not exceed thirty-two (32) square feet in surface display area. The sign shall be mounted flat against the front wall of the building. Such a sign may be illuminated as provided for in this ordinance.
 - (3) Commercially-made banners may be used as a permanent wall sign if all edges are completely affixed to the wall or framed.

§ 151.22 SIGNS IN THE MEDICAL DISTRICT (MD)

Any sign not expressly permitted is prohibited. Signs in the area zoned for medical district shall be permitted subject to the following limitations:

- A. Freestanding signs:
- (1) One (1) freestanding sign shall be allowed for each building constructed in the district. Additional freestanding signs shall be permitted for hospital uses at each intersection of public streets that surround hospital property.
 - (2) Freestanding signs shall not exceed thirty-two (32) square feet in surface display area per side.
 - (3) All freestanding signs shall maintain a minimum setback from the street right-of-way (property line) of ten (10) feet.
 - (4) No part of a freestanding sign shall exceed a height of eight (8) feet above the average grade of the property.
- B. Wall signs:

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- (1) One (1) wall sign shall be allowed at each entrance of a building that fronts a public street.
 - (2) Each wall sign shall not exceed twenty-five (25) square feet in size.
 - (3) Wall signs shall not be placed on a roof or have any part that extends above the lowest edge of a roof.
 - (4) Wall signs shall not extend more than twelve (12) inches in front of the wall to which they are attached.
 - (5) A sign on a canopy shall be considered a wall sign for the purposes of this section.
 - (6) Commercially-made banners may be used as a permanent wall sign if all edges are completely affixed to the wall or framed.
- C. Portable sidewalk (“A-frame”) signs:
- (1) One sign is allowed per business.
 - (2) The sign shall not exceed eight (8) square feet of surface display area per side.
 - (3) The sign shall not exceed four (4) feet in height.
 - (4) The sign is located in front of, and within six (6) feet of, the main entrance to the establishment it advertises.
 - (5) Placement of the sign allows a minimum of thirty-six (36) inches of unobstructed sidewalk clearance between it and any building or other obstruction.
 - (6) The sign must be free-standing and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree gate, fire hydrant, railing, or other structure.
 - (7) Portable signs shall have no lights attached in any manner.
 - (8) The sign is placed within the public right of way only during the hours of the establishment’s operation.
 - (9) The design of the sign (which includes the color, lettering, style, symbols and materials) shall complement and be compatible with the design of the establishment’s primary sign(s), abutting properties, and the general streetscape in the immediate vicinity of the establishment.
 - (10) Proof of adequate liability insurance is provided to the Village Clerk.

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D. Temporary Business Signs:

A maximum of two (2) signs may be used in a medical district to identify a special, unique or limited activity, service, project, promotion or sale of limited duration in accordance with the following provisions:

- (1) Signs shall be a maximum of 20 square feet.
- (2) Signs shall be placed on the same premises where the business is located.
- (3) Signs shall be located on the walls of the building (not on the roof) or free standing with no part of the sign higher than eight (8) feet above grade.
- (4) Signs shall be utilized for not more than seven (7) days in a thirty (30) day period.
- (5) Temporary signs shall not be illuminated.
- (6) The design of the sign (which includes the color, lettering, style, symbols and materials) shall complement and be compatible with the design of the establishment's primary sign(s), abutting properties, and the general streetscape in the immediate vicinity of the establishment.

E. Joint Identification Signs

- (1) Joint Identification Signs are allowed on one or more of the premises identified or their adjacent common property.
- (2) Joint identification signs may be allowed on non-adjacent common property if that sign meets all of the following standards:
 - a. All of the premises identified are in the same district as the sign.
 - b. The sign presents no obstacle to traffic or the view of nearby signs.
 - c. The sign substantially aids the public in locating the premises identified.
 - d. The sign is a freestanding sign and shall not exceed sixteen (16) square feet in surface display area per side.
 - e. The sign shall maintain a minimum setback of 10 feet from the Street right-of-way/property line.
 - f. The height of the sign shall be no greater than 15 feet from grade.
 - g. The sign may not be portable, and electric message center or temporary.
- (3) Joint identification signs may be allowed as an off premise sign, if that sign meets all of the following standards:
 - a. The property owner of the sign location shall construct, retain ownership of, and maintain the sign in accordance with this chapter.
 - b. Any property that has at least 400 feet of contiguous Street frontage may be allowed to have two (2) freestanding signs that meet the requirements of this section.

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151.23 SIGNS IN THE COMMERCIAL DISTRICT (C):

Any sign not expressly permitted is prohibited. Signs in the area zoned C, commercial district, shall be permitted subject to the following limitations:

A. Electronic Message Center (EMC):

- (1) One EMC shall be allowed per property.
- (2) Message change interval cannot be less than one change every six (6) seconds.
- (3) No part of an EMC shall be more than twelve (12) feet above grade.
- (4) To preserve the character of the downtown district, EMCs are not permitted in the portion of the Commercial District between First Street and Dresden Street (basis is the Master Plan). This subsection, however, shall not apply to a marquee sign and to an EMC (Electronic Message Center) owned by or under the control of the Village of Kalkaska.

B. Free Standing Signs:

- (1) One (1) freestanding sign shall be allowed per property. The sign shall not exceed fifty (50) square feet in surface display area per side.
- (2) A property consisting of two (2) or more business establishments may be allowed one on-premises advertising sign (freestanding) not exceeding one hundred (100) square feet in surface display area per side.
- (3) Any property that has at least 400 feet of contiguous street frontage may be allowed to have two (2) freestanding signs that meet the requirements of this Chapter. Each sign shall have not more than one hundred (100) square feet of display area per side.
- (4) All signs shall maintain a minimum setback from the street right-of-way (property line) of ten (10) feet.
- (5) Freestanding signs shall be allowed subject to the following height restrictions:
 - a) Monument (Ground) sign: No part of the sign shall exceed a height of six (6) feet above the average grade of the property.
 - b) Pylon mounted sign: No part of the sign shall exceed twenty (20) feet above grade. No part of the sign (except the supporting structure) shall be less than ten (10) feet above grade.

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- (6) Vehicle Fuel/Service Station signage – A vehicle fuel station shall be allowed additional signage in a Commercial District as described below:
 - a) Additional sign area of fifteen (15) square feet per side of a freestanding sign shall be allowed for the display of the price of fuel on the premises.
 - b) One additional wall sign shall be allowed at the entrance of each service bay that displays wording related to the motor vehicle services provided within the building such as “Washing”, “Lubrication”, “Oil Change” or “Mechanic on Duty”. Maximum square footage of such signs to be ten (10) square feet.
- (7) An EMC may be incorporated into a freestanding sign. The EMC shall constitute a maximum of 10% of the allowed display area.

C. Wall signs:

- (1) Any number of wall signs per wall are permitted. The maximum aggregate square footage of such signs shall not exceed 20% of the wall area of the ground level, one story wall containing the main entrance to the building. For individual property parcels that contain more than one business (such as strip malls), the above maximum shall apply to the individual business, and not the individual property parcel.
- (2) Wall signs shall not be placed on a roof or have any part that extends above the lowest edge of a roof.
- (3) Wall signs shall not extend more than twelve (12) inches in front of the wall to which it is attached.
- (4) Commercially-made banners may be used as a permanent wall sign if all edges are affixed to the wall or framed.
- (5) A sign on a canopy or awning shall be considered a wall sign for the purposes of this section.

D. Marquee signs:

- (1) Marquee signs shall be counted as one of the permitted wall signs as described in C(1).
- (2) The maximum square footage shall not exceed 20% of the wall area of the ground level, one story wall containing the main entrance to the building.
- (3) Electronic Message Center signs may constitute up to 100% of the marquee sign.

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E. Projecting signs:

- (1) One (1) projecting sign shall be allowed on buildings located in the portion of the Commercial District between Dresden Street and First Street.
- (2) Projecting signs shall not exceed a surface display area of twenty-five (25) square feet per side.
- (3) Projecting signs shall be attached directly to a building by means of building mounts or hung from a mast arm. These support members may also include decorative appurtenances. The manner of connection shall be confirmed by a professional engineer.
- (4) Projecting signs must project at a ninety-degree angle to the building surface to which attached.
- (5) Projecting signs shall not extend more than five feet over the street right-of-way.
- (6) Projecting signs shall maintain a minimum clearance above grade of eight (8) feet.

F. Window signs:

- (1) Window copy, painted or otherwise attached to the window surface, shall be limited to fifty (50) percent of the total surface of each window.

G. Banner signs:

- (1) Decorative or directional banners shall be allowed on privately owned parking lot light poles, subject to the following conditions:
 - a) Maximum of 2 banners per pole.
 - b) Maximum square footage of each banner shall be 8 square feet.

H. Wind Signs:

One sign per parcel is allowed as a “special sign” subject to the following conditions:

- (1) The setback shall be equal to the height of the sign, unless the entire sign support is affixed to the building.
- (2) In the portion of the commercial district between Dresden Street and First Street, the sign shall have a maximum overall height of ten (10) feet and a maximum width of three (3) feet.

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- (3) In the remainder of the commercial district, the sign shall have a maximum overall height of fourteen (14) feet and a maximum width of three (3) feet.

I. Portable sidewalk signs:

One sign is allowed per business subject to the following conditions:

- (1) The sign shall not exceed eight (8) square feet of surface display area per side.
- (2) The sign shall not exceed four (4) feet in height.
- (3) The sign is located in front of, and within six (6) feet of the main entrance to the establishment it advertises.
- (4) Placement of the sign allows a minimum of thirty-six (36) inches of unobstructed sidewalk clearance between it and any building or other obstruction.
- (5) The sign must be free-standing and shall not be affixed, chained, anchored or otherwise secured to the ground or to any pole, parking meter, tree, tree gate, fire hydrant, railing or other structure.
- (6) Portable signs shall have no lights attached or integrated into the sign in any manner.
- (7) The sign is placed within the public right of way only during the hours of the establishment's operation.
- (8) The design of the sign (which includes the color, lettering, style, symbols and materials) shall complement and be compatible with the design of the establishment's primary sign(s), abutting properties, and the general streetscape in the immediate vicinity of the establishment.
- (9) Proof of adequate liability insurance is provided to the Village Clerk.

J. Temporary Business Signs:

A maximum of two (2) signs may be used in a commercial district to identify a special, unique or limited activity, service, project, promotion or sale of limited duration in accordance with the following provisions:

- (1) Signs shall be placed on the same premises where the business is located.

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- (2) Signs shall be located on the walls of the building (not on the roof) or free standing with no part of the sign higher than eight (8) feet above grade.
- (3) Signs shall be utilized for not more than fourteen (14) days in a thirty (30) day period.
- (4) Temporary signs may only be illuminated in accordance with the provisions of this chapter.
- (5) The design of the sign (which includes the color, lettering, style, symbols and materials) shall complement and be compatible with the design of the establishment's primary sign(s), abutting properties, and the general streetscape in the immediate vicinity of the establishment.

K. Special signage for vehicle sales lots:

- (1) One sign, pennant, flag or balloon may be displayed on each vehicle in a vehicle sales lot for a maximum of six (6) months under the following provisions:
- (2) No sign, pennant, flag or balloon shall extend more than three (3) feet above the roof of the vehicle to which it is attached.
- (3) A sign, pennant or flag used for this purpose shall not exceed three (3) square feet in size.
- (4) An inflated balloon shall not exceed two (2) feet in diameter.
- (5) Signage permitted in this section shall not be illuminated.

L. Joint Identification Signs

- (1) Joint Identification Signs are allowed on one or more of the premises identified or their adjacent common property.
- (2) Joint identification signs may be allowed on non-adjacent common property if that sign meets all of the following standards:
 - a. All of the premises identified are in the same district as the sign.
 - b. The sign presents no obstacle to traffic or the view of nearby signs.
 - c. The sign substantially aids the public in locating the premises identified.
 - d. The sign is a freestanding sign and shall not exceed sixteen (16) square feet in surface display area per side.
 - e. The sign shall maintain a minimum setback of 10 feet from the Street right-of-way/property line.
 - f. The height of the sign shall be no greater than 15 feet from grade.
 - g. The sign may not be portable, and electric message center or temporary.

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- (3) Joint identification signs may be allowed as an off premise sign, if that sign meets all of the following standards:
 - a. The property owner of the sign location shall construct, retain ownership of, and maintain the sign in accordance with this chapter.
 - b. Any property that has at least 400 feet of contiguous Street frontage may be allowed to have two (2) freestanding signs that meet the requirements of this section.

§ 151.24 SIGNS IN THE INDUSTRIAL DISTRICT (I):

Any sign not expressly permitted is prohibited. Signs in the industrial district shall be permitted subject to the following limitations. Any sign not expressly permitted is prohibited.

A. Electronic Message Center (EMC):

- (1) One EMC shall be allowed per property.
- (2) Message change interval cannot be less than one change every six (6) seconds.
- (3) No part of an EMC shall be more than eight (8) feet above grade.
- (4) An EMC may be incorporated into a freestanding sign. The EMC shall constitute a maximum of 10% of the allowed display area.

B. Freestanding signs:

- (1) One (1) freestanding sign shall be allowed per property. The sign shall not exceed one hundred (100) square feet in surface display area per side.
- (2) The sign shall maintain a minimum setback from the street right-of-way (property line) of ten (10) feet.
- (3) No part of the sign shall exceed a height of eight (8) feet above the average grade of the property.

C. Wall signs:

- (a) One (1) wall sign shall be allowed on the front of each building not exceeding one hundred (100) square feet in size or twenty (20) percent of the building wall, whichever is smaller.
- (b) Wall signs shall not be placed on a roof or have any part that extends above the lowest edge of a roof.

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- (c) Commercially-made banners may be used as a permanent wall sign if all edges are completely affixed to the wall or framed.

A sign on a canopy or awning shall be considered a wall sign for the purposes of this section.

D. Banner signs:

- (1) Decorative or directional banners shall be allowed on privately owned parking lot light poles, subject to the following conditions:
 - a) Maximum of 2 banners per pole.
 - b) Maximum square footage of each banner shall be 8 square feet.

E. Wind Signs:

One sign per parcel is allowed as a “special sign” subject to the following conditions:

- (1) The setback shall be equal to the height of the sign.

The sign shall have a maximum height of eight (8) feet and a maximum width of three (3) feet.

F. Joint Identification Signs

- (1) Joint Identification Signs are allowed on one or more of the premises identified or their adjacent common property.
- (2) Joint identification signs may be allowed on non-adjacent common property if that sign meets all of the following standards:
 - a. All of the premises identified are in the same district as the sign.
 - b. The sign presents no obstacle to traffic or the view of nearby signs.
 - c. The sign substantially aids the public in locating the premises identified.
 - d. The sign is a freestanding sign and shall not exceed sixteen (16) square feet in surface display area per side.
 - e. The sign shall maintain a minimum setback of 10 feet from the Street right-of-way/property line.
 - f. The height of the sign shall be no greater than 15 feet from grade.
 - g. The sign may not be portable, and electric message center or temporary.
- (3) Joint identification signs may be allowed as an off premise sign, if that sign meets all of the following standards:

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- a. The property owner of the sign location shall construct, retain ownership of, and maintain the sign in accordance with this chapter.
- b. Any property that has at least 400 feet of contiguous Street frontage may be allowed to have two (2) freestanding signs that meet the requirements of this section.

NON-CONFORMING SIGNS

§ 151.31 NONCONFORMING SIGNS:

Existing nonconforming signs: It is the intent of this section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of adoption of this chapter, although such sign or outdoor advertising structure may not conform to the provisions of this chapter. It is the intent that nonconforming signs and outdoor advertising structures shall be gradually eliminated and terminated upon their replacement, structural changes, natural deterioration or accidental destruction. The continuance of nonconforming signs and outdoor advertising structures within the Village of Kalkaska shall be subject to the conditions and requirements set forth herein:

- A. Structural changes: The structure, supports or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted or enlarged unless the resultant changed, altered, substituted or enlarged sign or outdoor advertising structure conforms to the provisions of this section for the district in which it is located, except as otherwise provided for.
- B. No new illumination shall be added to any nonconforming sign.
- C. Repairs, alterations and improvements: Nothing shall prohibit the repair, reinforcement, alteration, improvement or modernizing of a lawful nonconforming sign or outdoor advertising structure, provided such repair does not exceed an aggregate cost of thirty (30) percent of the appraised replacement cost as determined by the Zoning Official. Nothing in this section shall prohibit the periodic change of message on any outdoor advertising structure.
- D. Restoration after damage: Any lawful nonconforming sign or outdoor advertising structure damaged by fire, explosion or an act of God, or by other accidental causes, may be restored, rebuilt or repaired, provided that the estimated expenses of reconstruction do not exceed fifty (50) percent of the appraised replacement cost as determined by the Zoning Official. If the repair/restoration is not completed within One Hundred Twenty (120) days after the date of the damage, the sign shall be considered to have been willfully removed by the owner. One (1) One Hundred Twenty (120) day extension may be authorized by the Zoning Official for extenuating circumstances. Any future signage shall be by permit only and shall conform to the provisions of this ordinance.
- E. Discontinuance or abandonment: When a sign is abandoned or whenever the activity, business or usage of a premises to which a sign is attached or related has been discontinued

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for a period of one (1) year or longer, the sign shall be removed. At the end of this period of abandonment, the nonconforming sign shall either be removed or altered to conform to the provisions of this section.

- F. As soon as reasonably possible after the effective date of this chapter, the Zoning Official or his designee shall make every reasonable effort to identify all the nonconforming signs within the village. The Zoning Official shall keep complete records of all correspondence, communications and other actions taken with respect to the nonconforming signs.

VARIANCE AND APPEAL PROCEDURES

§ 151.41 VARIANCE AND APPEAL PROCEDURES:

Variances requests may be heard and acted on by the Zoning Board of Appeals (ZBA) as provided for in sections 152.67 through 152.69(C) of the Zoning Code for the Village of Kalkaska. The following procedures shall be followed to apply and have action taken on a sign variance:

- A. Requests for sign variances shall be submitted on an official form available from the Village Clerk's office.
- B. A fee, as set from time to time by Resolution of the Village Council, shall be collected at the time the application is submitted to the Village Office.
- C. The Zoning Board of Appeals may grant variances for dimensional cases only when the ZBA finds that all of the criteria identified below apply in a specific case:
 - (1) **Practical Difficulties.** Compliance with the strict letter of the regulation applied to sign size, setbacks, location, height, or other dimensional provisions would render compliance with the regulation an unnecessary hardship. The applicant must show more than a mere inconvenience to justify a variance under this provision. Economic hardship does not constitute an unnecessary hardship.
 - (2) The practical difficulty was not self-created.
 - (3) **Substantial Justice.** Granting the requested variance would give substantial justice to the applicant as well as to other property and business owners by:
 - a) considering the public benefits intended to be secured by this chapter;
 - b) considering the result of the individual hardships that will be suffered by a failure of the ZBA to grant a variance;
 - c) considering the rights of others whose property would be affected by the allowance of the variance.

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- (4) Public Safety and Welfare. Granting the requested variance will not increase the hazard of fire or otherwise endanger public safety or create a public nuisance.
 - (5) Extraordinary Circumstances. There are unique circumstances or conditions applicable to the properties that do not exist generally throughout the village.
- D. Criteria applicable to appeals: The Zoning Board of Appeals shall reverse an order of the Zoning Official or other Enforcement Official only if it finds that the action or decision appealed meets one (1) or more of the following conditions:
- (1) The action or decision by the Zoning Official was arbitrary or capricious.
 - (2) The action or decision was based on an erroneous finding of a material fact.
 - (3) The action or decision was based on erroneous interpretation of the Sign Ordinance.

ENFORCEMENT OF ORDINANCE

§ 151.51 SAFETY, INSPECTION, AND REMOVAL

- A. Any sign determined by the Zoning Official to be unsafe or structurally unsound shall be removed within ten (10) days following receipt of such an order from the Village.
- B. When the Zoning Official determines that a sign or a component thereof is in violation of this section, then he/she shall notify the owner of the premises where said sign is located and the owner of the offending sign, if the owner of the premises and the sign owner are different. Notice shall be given by certified mail to the most recent owner of record. The administrative official shall set forth in writing the provisions of the chapter which are being violated and said notice shall advise the owner of the premises and the sign owner that the offending sign shall be removed within ten (10) business days or the Zoning Official may cause the sign to be removed and any costs thereof shall be assessed as a lien against the property; either real property, personal property or both.
- C. If the village clerk receives notice within the ten (10) day period of an appeal to the Zoning Official's decision, then the matter shall be submitted to the village council and their decision shall be final. If the council affirms the Zoning Official's decision to remove the sign, then the sign must be removed within twenty-four (24) hours of the Council Decision or the Zoning Official may cause the sign to be removed and the costs thereof shall be assessed as a lien against the property; either real property, personal property or both.
- D. Any cost for enforcement incurred by the Village of Kalkaska for the above action shall be paid by the owner of the sign found in violation or, upon default thereof, by the owner of the property on which the sign is located. . If he fails to pay the same within 30 days after mailing by the Village Clerk of the notice of the amount thereof, the amount shall be added to the next tax roll of the village and shall be collected in the same manner and in all respects as provided by law for the collection of taxes by the village.

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§ 151.52 VIOLATION, PENALTY, OR SANCTION

General Penalty Clause. Any violation of this Chapter is hereby designated as a municipal civil infraction and violators shall be subject to the civil fines, sanctions, remedies and procedures as set forth in Section 10.99 (A) of this Code of Ordinances which is hereby incorporated by reference.

§ 151.53 SEVERABILITY

The several provisions of this ordinance are declared to be separate. If any court of law shall hold that any section or provision thereof is invalid, such holding shall not affect or impair the validity of any other section or provision of this ordinance.

§ 151.54 EFFECTIVE DATE

This Ordinance shall be in full force and effective immediately after its publication as provided by law. (Chapter 151 amended 4-14-14).

CHAPTER 153: PARCEL DIVISIONS AND PROPERTY TRANSFERS

Section

153.01	Title
153.02	Purpose
153.03	Definitions
153.04	Approval of land divisions or property transfers required; establishment of exempt splits
153.05	Procedure for division or property transfer
153.06	Standards for approval of divisions or property transfers
153.07	Land configuration variances
153.08	Appeals to the Zoning Board of Appeals
153.09	Violations and penalties
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153.12	Separate court action
153.13	Validity

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§ 153.01 TITLE

This Chapter shall be known as the Village of Kalkaska Parcel Division Ordinance.

§ 153.02 PURPOSE.

The purpose of this Chapter is to carry out the provisions of the Land Division Act (Act 288 of the Public Acts of 1967, as amended, formerly known as the Subdivision Control Act), to prevent the creation of lots and parcels that do not comply with applicable Village of Kalkaska ordinances, to minimize potential boundary disputes, to maintain the orderly development of the village, and to otherwise protect the public health, safety and general welfare of the residents and the present and future property owners of the Village of Kalkaska. This shall be accomplished by regulating the division of existing lots and parcels and property transfers between two (2) or more adjacent lots or parcels. It is further the purpose of this Chapter to prescribe the procedures for the submission and review of proposed lot and parcel divisions and property transfers, to authorize fees for the review of applications submitted under this Chapter, and to provide penalties for violations of this Chapter.

§ 153.03 DEFINITIONS. As used in this Chapter,

"Accessible" in reference to a lot or parcel means that the lot or parcel meets one (1) or both of the following requirements:

- (1). Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department, and of the village or has an area where a driveway can provide vehicular access to an existing road or street and can meet all such applicable location standards.
- (2). Is served by an existing easement that provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or the village or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

"Applicant" means an owner of a lot or parcel of land, or his or her designee.

"Convey" or "Conveyance" means a transfer by an owner of an ownership interest in real property.

"Development site" means any parcel or lot on which exists or which is intended for building development other than the following:

- (1). Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

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- (2). Forestry use involving the planting, management, or harvesting of timber.

"Divide" or "Division" means the partitioning or splitting of a lot, parcel or tract of land by the owner or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, lease of more than one (1) year, building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the division standards of Section 153.06 of this Chapter. "Divide" or "Division" does not include a property transfer between two (2) or more adjacent lots or parcels, if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel; and any resulting lot or parcel shall not be considered a building site unless the lot or parcel conforms to the requirement of the Land Division Act, being Act No. 288 of the Public Acts of 1967, as amended, the Village of Kalkaska Zoning Ordinance, as amended, and this Chapter.

"Exempt split" means the partitioning or splitting of a lot, parcel or tract of land by the owner or by his or her heirs, executors, administrators, legal representatives, successors, or assigns that does not result in one (1) or more lots or parcels of less than forty (40) acres or the equivalent. For a property transfer between two (2) or more adjacent lots or parcels, if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel, any resulting lot or parcel shall not be considered a building site unless the lot or parcel conforms to the requirement of the Land Division Act, being Act No. 288 of the Public Acts of 1967, as amended, the Village of Kalkaska Zoning Ordinance, as amended, and this Chapter.

"Forty (40) acres or the equivalent" means forty (40) acres, a quarter-quarter section containing not less than thirty (30) acres, or a government lot containing not less than thirty (30) acres.

"Land" means all land areas occupied by real property, except the submerged bottomlands of inland lakes, rivers, and streams.

"Lot" means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

"Owner" means a person that holds a legal, equitable, option or contract interest in a lot or parcel of land whether recorded or not.

"Parcel" means a continuous area or acreage of land which can be described as provided for in the Land Division Act, being Act No. 288 of the Public Acts of 1967, as amended.

"Parent parcel" means first a tract of land lawfully in existence on March 31, 1997, if one exists in connection with a proposed division, or, if one does not exist, a parcel lawfully in existence on March 31, 1997.

"Person" means an individual, firm, corporation, association, partnership, estate, trust, limited liability company, or other legal entity, or any combination of any of them.

"Plat" or "Recorded plat" means a map or chart of a subdivision of land created pursuant to the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, or predecessor statutes to that act.

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"Property transfer" means a transfer of property between two (2) or more adjacent lots or parcels, if the property taken from one (1) lot or parcel is added to an adjacent lot or parcel and if all resulting lots or parcels conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Kalkaska Zoning Ordinance, as amended, and this Chapter. If the property transferred does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Kalkaska Zoning Ordinance, as amended, and this Chapter, then it shall not be considered a development site, but may only be used in conjunction with the lot or parcel to which it was transferred.

"Township Assessor" means the Kalkaska Township Assessor.

"Tract of land" means two (2) or more lots or parcels that share a common property line and are under the same ownership.

"Village Manager" means the Village of Kalkaska Village Manager, or his or her designee.

"Zoning Board of Appeals" means the Village of Kalkaska Zoning Board of Appeals.

§ 153.04. APPROVAL OF LAND DIVISIONS OR PROPERTY TRANSFERS REQUIRED; ESTABLISHMENT OF EXEMPT SPLITS.

- (a). The owner of a lot, parcel, or tract of land shall not divide or effect a property transfer involving, or cause any person to divide or effect a property transfer involving, that lot, parcel, or tract of land except as provided in this Chapter, unless the division or property transfer is approved as part of a subdivision plat at the time of plat approval under the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended, the division or property transfer is part of a condominium project developed under the Condominium Act, being Act 59 of the Public Acts of 1978, as amended, or the division or property transfer is done pursuant to an order of a court of competent jurisdiction.
- (b). The owner of a lot, parcel, or tract of land claiming an exempt split as defined in Section 153.03(f) of this Chapter shall submit to the Village Manager either a survey map of the land claimed to be an exempt split prepared pursuant to the survey map requirements of Act 132 of the Public Acts of 1970, as amended, certified by a land surveyor licensed by the State of Michigan, or other clear evidence documenting that the proposed exempt split of a parcel or tract of land will not result in one (1) or more parcels of less than forty (40) acres or the equivalent. In addition, the owner of a lot, parcel, or tract of land claiming an exempt split shall submit to the Village Manager evidence that each lot, parcel, or tract of land resulting from the proposed exempt split are accessible, as defined in this Chapter. If the Village Manager finds that the proposed division is an exempt split and that each new lot, parcel, or tract of land that will result from the division is accessible, then no further action under this Chapter shall be required. If the Village Manager finds that the proposed division is either not an exempt split or that each new lot, parcel, or tract of land that will result from the division is not accessible, then he or she shall give the owner written reasons for his or her decision. In that event the owner shall be required to proceed under Section 153.05 of this Chapter to obtain approval of the proposed division. If the owner disagrees with the Village Manager's decision, the owner can submit revised information to the Village Manager or appeal

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the Village Manager's decision to the Zoning Board of Appeals pursuant to Section 153.08 of this Chapter.

- (c). In addition, an exempt split or other partitioning or splitting of a parcel or tract of land that only results in parcels of twenty (20) acres or more in size is not subject to approval under this Chapter if the parcel or tract of land being partitioned or split is not accessible and was in existence on March 31, 1997 or resulted from an exempt split or a partitioning or splitting under Section 109b of the Land Division Act, as amended.

§ 153.05 PROCEDURE FOR DIVISION OR PROPERTY TRANSFER

The following procedure shall be followed to divide a lot, parcel or tract of land or to effect a property transfer:

- (a). When approval of a division or property transfer is desired, the Applicant shall submit an application for that approval to the Village Manager on a form supplied by the village for that purpose. The application shall include, but not be limited to the following:
 - (1). Proof of ownership of the lot, parcel, or tract of land to be divided, or of the lots or parcels involved in a property transfer.
 - (2). The names and addresses of all persons having an interest in the lot, parcel, or tract of land to be divided, or of the lots or parcels involved in a property transfer and a statement of the type of interest each holds.
 - (3). The history of the prior divisions of the parent parcel or tract of land from which the Applicant's parcel or tract of land came and proof that the Applicant holds the right to divide the parcel or tract of land proposed for division.
 - (4). A survey map of the land proposed to be divided or the land involved in the property transfer prepared pursuant to the survey map requirements of Act 132 of the Public Acts of 1970, as amended, certified by a land surveyor licensed by the State of Michigan and depicting the dimensions of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer, the dimensions of the lots, parcels, or tracts of land that will result from the division or property transfer, the location of all current easements on the lot, parcel, or tract of land to be divided, or on the lots or parcels involved in a property transfer, and the location of all proposed easements on the lots, parcels or tracts of land that will result from the division or property transfer. The easements required by this subsection shall include both utility easements and ingress/egress easements. The survey shall also depict all buildings and structures on the lot, parcel, or tract of land to be divided, or on the lots or parcels involved in a property transfer and the distances between these buildings and structures and the original property lines of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer and shall depict the distances between these buildings and structures and the property lines of the lots, parcels, or tracts of land that will result from the division or property transfer. The Parcel Division Committee may waive the survey map requirement

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if it finds that, considering the size, simple nature of the division or property transfer, the undeveloped character of the parent parcel, or that the proposed division of a tract of land will be along preexisting and recorded lot or parcel boundaries, a survey map is not needed to determine compliance with this Chapter and the Land Division Act, as amended. If a survey map is not required, then the Applicant shall submit a tentative parcel map which shall be a scale drawing showing the approximate dimensions of the parcels, the parcel lines, public utility easements, accessibility, and other evidence establishing compliance with the approval standards of this Chapter.

(5). A map showing the location of the lot, parcel, or tract of land to be divided, or the lots or parcels involved in a property transfer within the village.

(6). Legal descriptions, certified by a land surveyor licensed by the State of Michigan, of the lots, parcels, or tracts of land that will result from the division or property transfer.

(7). If the lot, parcel, or tract of land that will result from the division or property transfer will be a development site, then the Applicant shall submit a permit or other documentation from the state transportation department or the or the village DPW that each such resulting lot, parcel, or tract of land is accessible. In addition, if the lot, parcel, or tract of land that will result from the division or property transfer will be a development site, the Applicant shall submit evidence establishing adequate easements for public utilities from each such resulting lot, parcel, or tract of land to existing public utility facilities.

(8). A brief statement as to the purpose of the proposed division or property transfer and whether the lots, parcels or tracts of land that will result from the division or property transfer are intended as a development site.

(9). Such other documentation that the Village Manager may require relating to the application.

- (b). The application shall be accompanied by an application fee as established and set forth in a village fee schedule. This fee schedule shall also establish "after the fact" fees that must be paid when an otherwise lawful division or property transfer occurs but without first complying with the procedural requirements of this Chapter. This "after the fact" fee is not intended to be a penalty, but shall consist of the normal application fee plus an amount equal to the legal and administrative costs incurred by the village as the result of the Applicant's failure to initially comply with the requirements of this Chapter.
- (c). After receiving the information required in subsection 153.05(a) above, the Village Manager shall, within forty-five (45) days, decide whether to approve the proposed division or property transfer. If the Applicant fails to provide all the information required by this Chapter, then the application shall be deemed incomplete and may be denied on that basis. The Village Manager's decision to approve the division or property transfer shall be made pursuant to the standards contained in Section 153.06 of this Chapter. The Village Manager may grant conditional approval of an application, subject to the Applicant obtaining any necessary variances from the Zoning Board of

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Appeals pursuant to Section 153.07 of this Chapter. The Village Manager shall specify in writing the reasons for his or her decision concerning the proposed division or property transfer. If the Village Manager fails to grant approval of a proposed division or property transfer, the Applicant shall then have the option of resubmitting information for approval to the Village Manager or appealing the Village Manager's decision to the Zoning Board of Appeals pursuant to Section 153.08 of this Chapter. Any approval or approval with conditions of a division or property transfer shall not be considered a determination that the resulting lots, parcels, or tracts of land comply with any other ordinances or regulations of the village.

- (d). If the Village Manager approves a proposed division or property transfer, then the Village Manager shall send a letter indicating such approval to the Applicant with copies to the Village of Kalkaska Zoning Administrator, the Kalkaska Township Assessor, and the Kalkaska County Equalization Department. This letter shall contain the following statement: "Pursuant to Section 109a of the Land Division Act, as amended, Village of Kalkaska, its officers and employees are not liable if a building permit is not issued for a parcel less than one (1) acre in size that resulted from an approved division under the Village of Kalkaska Parcel Division Ordinance." A copy of this letter shall be retained by the Village Manager in his or her official records.
- (e). Because zoning requirements may change over time, any approval of an application for a division or property transfer by the Village Manager under Section 153.05(c) above shall expire and a new approval required, unless the Applicant within ninety (90) days from the date of the approval, records in the Kalkaska County Register of Deeds Office an instrument(s) of conveyance or a complete survey, including the legal descriptions for each resulting lot or parcel documenting the division or property transfer and files a copy of that recorded instrument(s) or survey with the Village Manager. If the grantor intends to convey the right to future divisions of the parcel being conveyed, the deed or land contract shall contain the following statement as required by the Land Division Act, as amended: "The grantor grants to the grantee the right to make zero, (insert number), or all division(s) under section 108 of the Land Division Act, Act No. 288 of the public Acts of 1967." Finally, all deeds and land contracts of unplatted land shall contain the following statement as required by the Land Division Act, as amended: "This property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act."

§ 153.06 STANDARDS FOR APPROVAL OF PARCEL DIVISIONS OR PROPERTY TRANSFERS

An application to divide a lot, parcel, or tract of land or to effect a property transfer shall be granted when all of the following standards are met:

- (a). The proposed division or property transfer shall comply with all requirements of the Land Division Act of 1967, being Act 288 of the Public Acts of 1967, as amended.
- (b). The lots, parcels, or tracts of land that will result from the division or property transfer shall comply with all requirements of the Village of Kalkaska Zoning Ordinance, as amended, including but not limited to the requirements relating to area and width for the newly created lots, parcels, or

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tracts of land, the requirements relating to lake and/or road frontages, and the requirements relating to setbacks if the newly created lots, parcels, or tracts of land have buildings or structures on them. The addition of land to an already lawful nonconforming lot or parcel is permitted without a zoning variance, provided that the lot or parcel from which the land is taken will not become a nonconforming lot or parcel or, if already non-conforming, will not become more nonconforming.

- (c). Each lot, parcel, or tract of land that will result from the division or property transfer shall have an adequate and accurate legal description and be included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility, and other requirements of Sections 108 and 109 of the Land Division Act. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.
- (d). Except for the remainder of the parent parcel or parent tract of land retained by the owner, each new lot, parcel, or tract of land that will result from the division, including those lots, parcels, and tracts of land greater than ten (10) acres, shall have a depth of not more than four (4) times its width as measured under the requirements of the Village of Kalkaska Zoning Ordinance. This standard shall not apply to a property transfer.
- (e). If a lot, parcel, or tract of land that will result from the division or property transfer will be a development site, then each such resulting lot, parcel, or tract of land shall have adequate easements for public utilities from each such resulting lot, parcel, or tract of land to existing public utility facilities.
- (f). If the land proposed to be transferred between two (2) or more adjacent lots or parcels does not independently conform to the requirements of the Land Division Act, being Act 288 of the Public Acts of 1967, as amended, the Village of Kalkaska Zoning Ordinance, as amended, and this Chapter, then the land proposed to be transferred shall not thereafter be independently considered a development site, but may only be used in conjunction with an adjoining lot(s), parcel(s), or tract(s) of land.
- (g). Each lot, parcel, or tract of land that will result from the division or property transfer shall be accessible.
- (h). The owner of the parcel or tract of land shall possess the right to divide the parcel or tract of land. This standard shall not apply to a property transfer.
- (i). The proposed division does not isolate a cemetery so that it no longer is accessible as defined in this Chapter. This standard shall not apply to a property transfer.
- (j). The land to be divided complies with one of the following requirements:
 - (1). All property taxes and special assessments due on the parcel or tract subject to the proposed division for the 5 years preceding the date of the application have been paid, as established by a certificate from the Kalkaska County Treasurer. If the date of the application is on or after March 1 and before the Village of Kalkaska Treasurer has made

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his or her return of current delinquent taxes, the Kalkaska County Treasurer shall include with his or her certification a notation that the return of current delinquent taxes was not available for examination. The Parcel Division Committee, however, shall not disapprove the application because the County Treasurer's certification includes such a notation. The Kalkaska County Treasurer shall collect a fee for a certification under this subdivision in an amount equal to the fee payable under section 1(2) of 1895 PA 161, MCL 48.101, for a certificate relating to the payment of taxes under section 135 of the general property tax act, 1893 PA 206, MCL 211.135.

(2). If property taxes or special assessments due on the parcel or tract subject to the proposed division have not been paid, the unpaid property taxes or special assessments have been apportioned by the Township Assessor as provided by section 53 of the general property tax act, 1893 PA 206, MCL 211.53. Any apportioned property taxes or special assessments are a lien against the parcels or tracts as apportioned by the Township Assessor and shall be treated in the same manner as property taxes and special assessments of the year of the original assessment for the purpose of collection and sale for delinquent taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

This standard shall not apply to a property transfer.

§ 153.07 LAND CONFIGURATION VARIANCES

- (a). If a lot, parcel, or tract of land that will result from a division or property transfer does not meet the requirements of the Village of Kalkaska Zoning Ordinance as specified in Section 153.06(b) of this Chapter, then the Applicant may seek a variance from those zoning requirements from the Zoning Board of Appeals pursuant to the procedures of the Village of Kalkaska Zoning Ordinance.
- (b). If a lot, parcel, or tract of land that will result from a division does not meet the depth to width requirements of Section 153.06(d) of this Chapter, then the Applicant may seek a variance from those requirements from the Zoning Board of Appeals pursuant to the procedures of this section.
- (c). The Zoning Board of Appeals may grant a variance under this Chapter from the depth to width requirement of Section 153.06(d) of this Chapter, if all of the following exist:
 - (1). Exceptional or extraordinary circumstances or conditions exist on the parent parcel, including exceptional topographic or physical conditions, that do not generally apply to other lots, parcels, or tracts of land in the village.
 - (2). The exceptional or extraordinary circumstances or conditions existing on the parent parcel are not the result of any act or omission by the Applicant or his or her predecessors in title.
 - (3). The granting of the variance shall not be injurious or otherwise detrimental to adjoining lots, parcels, or tracts of land or to the general health, safety, and general welfare of the village.

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- (4). The resulting lots, parcels, or tracts of land with the variance granted shall be compatible with surrounding lots, parcels, or tracts of land.
- (5). The variance granted shall be the minimum variance that will make possible the reasonable use of the parent parcel.
- (d). The Zoning Board of Appeals shall follow the procedures of the Village of Kalkaska Zoning Ordinance relating to variances when deciding whether to grant a variance under this section.
- (e). In granting any variance under this Chapter, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in order to ensure that the lot, parcel, or tract of land that will result from the division or property transfer complies with the variance granted under this Chapter. Violations of such conditions and safeguards shall be deemed a violation of this Chapter, punishable under Section 153.09 of this Chapter.

§ 153.08 APPEALS TO THE ZONING BOARD OF APPEALS

Any person aggrieved by a decision of the Village Manager may appeal that decision to the Zoning Board of Appeals following the procedures of the Village of Kalkaska Zoning Ordinance, as amended, for appeals to the Zoning Board of Appeals. Any such appeal shall be filed within thirty (30) days from the date of the decision from which the appeal is taken. During the appeal, the Zoning Board of Appeals shall conduct a *de novo* hearing of the matter and to that end shall have all the powers of the Village Manager. In rendering its decision, the Zoning Board of Appeals shall receive and consider evidence and data relevant to the case and shall issue its decision in writing within a reasonable period of time after receiving all evidence and data in the case. The decision of the Zoning Board of Appeals shall then be sent promptly to the Applicant, to the person who filed the appeal (if different than the Applicant), and to the Township Assessor and Zoning Administrator.

§ 153.09 VIOLATIONS AND PENALTIES

Any person who violates any provision of this Chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Chapter is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

§ 153.10 ENFORCEMENT OFFICER

The Village Manager, officers of the Village of Kalkaska Police Department, and other officials designated by the Village Council are hereby designated as the authorized village officials to issue municipal civil infraction citations directing alleged violators of this Chapter to appear in court.

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§ 153.11 NUISANCE PER SE

A violation of this Chapter is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.

§ 153.12 SEPARATE COURT ACTION

In addition to enforcing this Chapter through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Chapter.

§ 153.13 VALIDITY

If any section, provision or clause of this Chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this Chapter, which can be given effect without the invalid portion or application.