



MEMORANDUM

Date: September 10, 2021

SENT VIA EMAIL

To: Angela Mesaros
Director of Economic and Community Development
Village of Homewood

From: Houseal Lavigne Associates
Jackie Wells, AICP, Project Manager
Ruben Shell, Lead Support

Re: **Diagnostic Report & Preliminary Recommendations Framework**
Homewood Zoning Code Update

This report is delivered in support of the zoning ordinance update project for the Village of Homewood. It presents recommended updates to the zoning ordinance using information and input gathered during Step 1: Project Initiation and Up-Front Community Outreach, as described in the project scope of work.

This report contains Houseal Lavigne's initial assessment of the Village of Homewood's zoning ordinance (Chapter 44 - Zoning of the Village of Homewood's Code of Ordinances). Best practices relating to land development regulations are identified throughout the memorandum for potential application in the updated zoning ordinance. Please note that the recommendations of this report are preliminary, based upon the information and community input available to date. Future engagement with Village staff, the Planning and Zoning Commission, and the community may result in revisions.

This report includes:

- A proposed new structure for the zoning ordinance.
- Preliminary recommendations for updates to the zoning ordinance.

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PROPOSED ZONING ORDINANCE STRUCTURE

Zoning ordinances are best organized in a manner that makes them straightforward to use and administer. This type of user-friendly code includes tables and graphics when appropriate, and orders sections depending on how frequently they are referenced. Homewood's zoning standards regarding permit procedures and submittal requirements are located throughout Chapter 44 – Zoning rather than together in one portion of the ordinance. For instance, the landscape plan and review procedures are in Section 44-513 and 514, while the other permit procedures for site plan review and special land uses are in Article II. Similarly, the definitions for terms used throughout the ordinance, which are typically only used in specific circumstances where interpretation is required, are in Article I at the beginning of the ordinance, rather than at the end. All of this makes the zoning ordinance more difficult for potential applicants to navigate. It is recommended that the existing regulations be organized into 9 Articles as shown below.

- Article 1: General Provisions
- Article 2: Establishment of Districts
- Article 3: District Standards
- Article 4: Use-Specific Standards
- Article 5: Development Standards
- Article 6: Planned Development Standards and Procedures
- Article 7: Zoning Procedures
- Article 8: Nonconformities
- Article 9: Definitions

PRELIMINARY RECOMMENDATIONS

The following assessment summarizes the key issues, concerns, observations, and preliminary recommendations for revisions to the content and structure of the zoning ordinance. Each subheading is one of the proposed articles shown above. The text under each subheading summarizes the issues and concerns with the existing zoning ordinance text, describes the best practice regulations used by similar communities, and depicts recommended changes to the existing regulations.

NOTE: The recommendations included below are not intended to be an exhaustive or limiting list of potential revisions but are rather meant to act as a starting off point for the update process.

Article 1: General Provisions

It is recommended that the new Article 1: General Provisions include the existing zoning ordinance sections that establish its title, intent, purpose, and applicability, and that set the stage for the zoning ordinance's defensibility. It is also recommended that the definitions contained in Section 44-4 of the existing Article I be relocated to the end of the zoning ordinance because definitions are typically used on an as-needed basis and are not critical information that a typical code user will need to read through.

Article 2: Establishment of Districts

It is recommended that the new Article 2: Establishment of Districts include the existing sections of Article III. – Zoning Districts that establish the Village's base and overlay districts and describe their purpose and intent. The district purpose and intent statements are currently located throughout the ordinance, making it difficult for ordinance users to compare and contrast the Village's districts. For instance, the purpose and intent statements for the business districts are in Section 44-172, while the purpose and intent statements for residential districts are in Section 44-141. In addition to consolidating the base and overlay districts, their purpose and intent statements should be updated to be more descriptive regarding the desired character and development pattern in each district. At a minimum, the purpose and intent statements should include the following:

- Density range/development intensity
- Predominant land use
- Distinguishing features

Additionally, it is recommended that the Village eliminate the Downtown Overlay District and adjust the boundaries of the B-1 District to capture the downtown core more accurately. The existing standards applicable to the Downtown Overlay District should be carried forward for the B-1 District.

Article 3: District Standards

It is recommended that Article 3: District Standards include the standards relevant to the Village's base and overlay districts including use and bulk/dimensional standards. The current zoning ordinance's standards for permitted and special uses and yard and bulk regulations are currently located in different ordinance sections making it difficult for an ordinance user to easily understand what they can do with their property. For instance, the yard and bulk regulations in residential districts are in Table 44-142.2, while those for business districts are in Table 44-175.2. It is recommended that the new Article 3: District Specific Standards include tables that establish permitted and special uses as well as the yard and bulk regulations for each district, allowing ordinance users to compare and contrast district allowances.

Limited Uses

It is recommended that the Village update the permitted and special uses table to also include limited uses. Limited uses would be approved administratively and should include use types that warrant an additional level of review as compared to permitted uses but are not as impactful as requiring a special use permit. A clear process and objective standards of review should be established in Article 7 to ensure the administrator has the tools necessary to avoid making or be viewed as making arbitrary and/or capricious decisions. Additionally, the process should allow the administrator to elevate a limited use to a special use if an additional level of review is deemed necessary.

Recreation and Event Spaces

It is recommended that the regulated use “learning centers”, which are currently permitted uses in the B-1 District, and special uses in the B-2, B-3, B-4, and M-1 Districts be updated to comply with the Religious Land Use and Institutionalized Persons Act, discussed in greater detail later in this report, as well as to better regulate different scales of event-related facilities that have become increasingly common in the Village.

The Village’s existing “Indoor Recreation, Community Center, Health Club, and YMCA” and “Indoor Amusement/Movie Theaters” should be revised to “Commercial Place of Assembly” as defined later in this report. It is recommended that this proposed use category be further broken down to differentiate between indoor and outdoor activity as well as different scales of commercial place of assembly uses, such as “Indoor Commercial Place of Assembly, less than 5,000 square feet”, “Outdoor Commercial Place of Assembly, less than 10,000 square feet”, “Indoor Commercial Place of Assembly, greater than 5,000 square feet”, and “Outdoor Commercial Place of Assembly, greater than 10,000 square feet”. Additional direction from the Village is needed to determine the appropriate square footage thresholds. Differentiating commercial place of assembly uses based on whether the activity is primarily indoors or outdoors as well as on their scale will help to ensure that the intensity of the uses is appropriate in the district they are located in. Smaller-scale indoor and outdoor commercial place of assembly uses should be special uses in the B-1 and B-2 districts and permitted uses in the B-3, B-4, and M-1 Districts. Larger-scale, indoor and outdoor commercial place of assembly uses should be prohibited in the B-1 and B-2 Districts and special uses in the B-3, B-4, and M-1 Districts. Use-specific standards should be established to minimize the off-site impacts of these uses.

Personal Service and Professional Office Uses

Homewood’s zoning ordinance currently regulates personal service uses as “Salon/Spa Establishments” which are allowed as special uses in the B-1 and B-2 Districts and permitted uses in the B-3 and B-4 Districts as well as “Personal Service” which are allowed as permitted uses in the B-1, B-2, B-3, and B-4 Districts. Medical offices are included in the “Professional Offices” use and are allowed as permitted uses in the B-1, B-2, B-3, and B-4 Districts. None of the uses have additional standards to control for location, noise, or other issues or impacts. Based on feedback received on the Initial Policy Direction memo, it is recommended that “Salon/Spa Establishments” be consolidated into the “Personal Service” use category. Updated and clarified definitions for “Personal Service” and “Professional Office” are detailed later in this report. Additionally, it is recommended that both the “Personal Service” and “Professional Office” uses be further broken down to distinguish between whether the use is located on the ground floor or upper floors of a building. In the B-1 District, it is recommended that “Personal Service” and “Professional Office” be allowed as permitted uses on upper floors and limited uses on ground floors. This will incentivize their location on upper floors and provide the Village with an additional level of review if they are located on ground floors.

Short-Term Rentals

The zoning ordinance does not currently define or regulate short-term rentals. It is recommended that short-term rentals be added to the new permitted use table and that a definition be established later in the ordinance. It is recommended that short-term rentals be permitted uses in the R-1, R-2, and R-3 Districts, however, it is recommended that use-specific standards be established as described later in this report to manage associated off-site impacts.

Accessory Dwelling Units

Village staff, leadership, and residents provided mixed feedback on the policy regarding accessory dwelling units (ADUs) included in the Initial Policy Direction memo. Given this, additional direction is needed from the Village to determine the appropriateness of accessory dwelling units within Homewood’s residential districts. Recommended use-specific standards for ADUs are included later in this report to help guide Village decision-making.

Two- and Three-Flats in Single-Family Residential Districts

Multifamily housing including two- and three-flats exist throughout the R-1 and R-2 Districts, which are intended to allow single-family residential uses. Although the multifamily uses can continue as nonconforming uses under the current ordinance, they cannot be substantially remodeled or rebuilt if destroyed because they are not legally permitted under the zoning ordinance. It is recommended that the Village allow two- and three-flats existing at the time of the adoption of the new zoning ordinance as permitted uses in the R-1 and R-2 Districts in order to allow for reinvestment in these properties. To accomplish this, it is recommended that new categories be added to the existing “dwellings, two-family” and “dwellings, multiple family” uses to differentiate new uses from existing uses. The existing uses should be allowed by-right in the R-1 and R-2 Districts, while the existing regulations should continue to apply to new uses. It is recommended that the “existing” use category be subject to use-specific standards to ensure the density of the use is not increased.

Coworking Spaces

Coworking spaces are arrangements in which employees of different companies or establishments share an office or personal service (such as a salon) space, providing them access to services such as a shared waiting room and/or internet and equipment, typically in exchange for a fee. It is relatively rare for communities to permit coworking spaces as a separate use from other professional office or personal service uses. However, several municipalities, with zoning ordinances developed in recent years have established coworking spaces as a distinct permitted use, considering that these venues can assist self-employed individuals or those who telecommute for companies in other locations. For instance, the Town of Queen Creek, Arizona, located at the edge of the Phoenix area, establishes Coworking Spaces/Business Incubators as a permitted use in its business districts, separate from “General Offices”. The Town permits Coworking Spaces as by-right uses in several districts including its Light Commercial, General Commercial, Regional Commercial, Mixed-Use, and Downtown Core Districts. The Town’s zoning ordinance clearly defines coworking spaces as work that involves a shared workplace, often an office, and independent activity that generally costs money in the form of membership dues.

It is recommended that the Village establish coworking spaces as a land use category and allow it in the nonresidential districts as personal services and professional offices are proposed to be allowed. Additionally, it is recommended that use-specific standards and a permitting process be established to ensure that all uses moving into a coworking space are allowed in the district.

Impervious Surface Limits & Open Space

The existing tables 44-144.2, 44-175.2, and 44-243.2 contain the Village’s yard and bulk requirements for residential, commercial, and manufacturing districts, respectively. The standards in each table regulate minimum lot area, lot width, yard setbacks, and maximum height/FAR. However only the residential district table establishes a maximum impervious surface coverage limit. Impervious surface coverage limits help to minimize stormwater runoff and flooding issues and further environmental protection, a goal of the Village. To ensure that development in all of the Village’s districts is responsible for minimizing stormwater runoff and flooding and furthering the Village’s environmental protection goals, it is recommended that impervious surface coverage limits be established for the business and manufacturing districts. The proposed maximum by district is detailed in the table below:

Yard and Bulk Regulations	B-1	B-2	B-3	B-4	M-1	M-2
Maximum Impervious Surface Coverage	100%	60%	70%	70%	70%	70%

Lot Area & Width Appropriateness Analysis

A lot area and width appropriateness analysis compares the existing minimum lot area and width requirements established for a zoning district with existing development within that district. The analysis provides insight on how regulations can be right-sized to better reflect existing development patterns, easing the burden on landowners as they look to reinvest in their property and on staff and elected/appointed officials as they review and consider variance requests.

The analysis first determines the number of parcels in each district that do not conform with the existing lot size and width requirements. It then determines the number of parcels in each district that would remain nonconforming if the existing lot area and width requirements were reduced.

In Homewood, the lot area and width appropriateness analysis was performed for the R-1: Single-Family Residence District, R-2: Single-Family Residence District, and R-3: Townhouse/Transition District. The analysis was not performed for the R-4: Multiple Family Residence District because sufficient data was not available to distinguish between lots with townhouses and lots with multifamily dwellings, which have distinct standards for lot area. The analysis was not performed for the Village's nonresidential districts as they do not have minimum lot area and width requirements.

Maps illustrating the analysis are included in the Appendix at the end of this memo.

R-1: Single-Family Residence District

The R-1: Single-Family Residence District is intended to protect and maintain single-family detached neighborhoods at low densities and on relatively large lots. The district's existing lot area minimum is 10,400 square feet and its lot width minimum is 80 feet. The analysis showed that 346 of the 882 existing parcels, 39.2% of the total, are smaller than the lot area requirement, while 559 parcels, 63.3% of the total, are narrower than the lot width minimum. To understand what lot area and lot width minimums would be most appropriate for the district, alternative minimums were tested. The results of that test are included in the tables below.

Lot Area Minimum	Number of Parcels Less Than Minimum	Percent of Parcels Less Than Minimum
Existing - 10,400 sq ft	346	39.2%
Alternative - 9,000 sq ft	162	18.3%
Alternative - 8,500 sq ft	107	12.1%

Lot Width Minimum	Number of Parcels Less Than Minimum	Percent of Parcels Less Than Minimum
Existing - 80 ft	559	63.3%
Alternative - 70 ft	517	58.6%
Alternative - 60 ft	357	40.4%
Alternative - 50 ft	172	19.5%

This analysis revealed that a more appropriate lot size may be either 9,000 square feet or 8,500 square feet and that a more appropriate lot width may be either 60 feet or 50 feet.

To ensure that reducing the lot area and width minimums would not alter the character of neighborhoods in the R-1 district, the alternative minimums were tested to see if they would create new opportunities for subdivision. New opportunities for subdivision include lots that are at least two times greater than the alternative lot area and width minimums but cannot not be subdivided under the existing lot area or width minimums. The proposed lot area alternative of 9,000 square feet and lot width alternative of 60 feet would create 18 new opportunities for subdivision while the 8,500 square foot lot area minimum and 50-foot lot width minimum would create 56 new opportunities for subdivision. **Based on this analysis, it is recommended that the Village revise the lot area minimum of the R-1 district to 9,000 square feet and the lot width minimum to 60 feet.**

R-2: Single-Family Residence District

The R-2: Single-Family Residence District is intended to protect and maintain the Village's detached single-family residential development. Although its intent statement does not clearly differentiate the district's purpose from the R-1 district, its lot area and width standards are slightly smaller, allowing for higher densities. The district's existing lot area standard is 8,100 square feet and its existing lot width standard is 60 feet. The analysis revealed that 2,630 of the 5,505 existing parcels, 47.7% of the total are smaller than the lot area requirement, while 2,977 parcels, 54.0% of the total are narrower than the lot width requirement. To understand what lot area and lot width minimums would be most appropriate for the district, alternative minimums were tested. The results of that test are included in the tables below.

Lot Area Minimum	Number of Parcels Less Than Minimum	Percent of Parcels Less Than Minimum
Existing - 8,100 sq ft	2,630	47.7%
Alternative - 7,500 sq ft	1,651	29.9%
Alternative - 7,000 sq ft	1,064	19.3%
Alternative - 6,500 sq ft	742	13.4%

Lot Width Minimum	Number of Parcels Less Than Minimum	Percent of Parcels Less Than Minimum
Existing - 60 ft	2,977	54.0%
Alternative - 50 ft	1,168	21.2%
Alternative - 45 ft	564	10.2%

This analysis revealed that a more appropriate lot area minimum may be either 7,000 square feet or 6,500 square feet, while a more appropriate lot width minimum may be either 50 feet or 45 feet.

To ensure that reducing the lot area and width minimums would not alter the character of neighborhoods in the R-2 District, the alternatives were tested to determine how many new opportunities for the subdivision of lots each alternative would create. New opportunities for subdivision include lots that are at least two times greater than the alternative lot area and width minimums but cannot not be subdivided under the existing lot area or width minimums. The lot area alternative of 7,000 square feet and lot width alternative of 50 feet would create 55 new opportunities for subdivision while the 6,500 square foot lot area minimum and 45-foot lot width minimum would create 89 new opportunities for subdivision. Based on the high number of new opportunities for subdivision revealed by these results, the 7,500 square foot lot area and 50-foot lot width minimum were tested and would create 46 new opportunities for subdivision. However, 41 of the new opportunities for subdivision resulting in the proposed 7,500 square foot lot area and 50-foot lot width minimum would, if subdivided, be substantially similar to the area and width of surrounding parcels. **Since these new opportunities for subdivision would not alter the character of the neighborhoods in which they are located, it is recommended that the Village revise the lot area minimum of the R-2 district to 7,500 square feet and the lot width minimum to 50 feet.**

R-3: Townhouse/Transition District

The R-3: Townhouse/Transition District is intended to promote single-family attached residential development mixed with a range of limited commercial uses. The district's existing lot area standard is 4,300 square feet per unit and the existing lot width standard is 60 feet. The analysis revealed that 4 of the 43 existing parcels, 9.3% of the total, are smaller than the area per unit requirement, meaning the existing minimum is appropriate for the district. The analysis also revealed that 30 parcels, 69.7% of the total, are narrower than the minimum width requirement. To understand what lot width minimum would be most appropriate for the district, alternative minimums were tested. The results of that test are included in the tables below.

Lot Width Minimum	Number of Parcels Less Than Minimum	Percent of Parcels Less Than Minimum
Existing - 60 ft	30	69.6%
Alternative - 50 ft	17	39.5%
Alternative - 45 ft	3	6.9%

This analysis revealed that a more appropriate lot width may be either 50 or 45 feet.

To ensure that reducing the lot width minimum would not alter the character of neighborhoods in the R-3 District, the alternatives were tested to determine how many new opportunities for the subdivision of lots each alternative would create. New opportunities for subdivision include lots that are at least two times greater than the lot area per unit and alternative lot width minimums but cannot not be subdivided under the existing lot area per unit or width minimums. The existing lot area per unit and width standards create four opportunities for subdivision. Maintaining the lot area per unit of 4,300 square feet and instituting an alternative lot width of 50 feet would generate no new opportunities for subdivision. Meanwhile, maintaining the lot area per unit of 4,300 square feet and revising the lot width to 45 feet would generate only one new subdivision opportunity. **Based on this analysis, it is recommended that the Village maintain the existing R-3 lot area per unit minimum of 4,300 square feet and reduce the lot width minimum to 45 feet.**

Article 4: Use Standards

It is recommended that the Village's current use standards, located on Section 9 of the zoning ordinance, be moved to Article 4: Use Standards. The existing standards should be modernized as appropriate and brought into compliance with federal and state regulations. For example, the standards applicable to Places of Worship should be either eliminated or made applicable to all institutional and place of assembly uses regardless of religious affiliation. Additionally, new use standards should be established including those for the uses discussed below.

Short-Term Rental Standards

It is recommended that use-specific standards be established for short-term rentals to manage and reduce their impact on housing affordability and the character of residential neighborhoods. The use-specific standards should limit the following aspects of short-term rental operations:

- Maximum number of guests.
- Minimum and maximum duration of stay for guests.
- Maximum number of operation days in a calendar year.
- Require that the site have an existing owner-occupied residential use and that the owner reside on-site.

Accessory Dwelling Unit Standards

The table Accessory Dwelling Unit (ADU) Provisions in Northeast Illinois compares how South Elgin, Park Forest, and Wilmette permit and regulate ADUs to ensure that they fit within their neighborhood context. South Elgin allows ADUs within all its residential districts, Park Forest allows the use in its single-family and estate residential districts, and Wilmette allows the use in its single-family and attached residential districts. How the use is allowed and procedure for approving them also differs between the communities. In South Elgin, ADUs are permitted uses but require site plan review by the planning commission. In Park Forest, ADUs are permitted uses but require site plan review by the zoning administrator. In Wilmette, ADUs are special uses.

The format that accessory dwelling units are permitted in differs among the communities. South Elgin allows ADUs in the principal structure or in an accessory structure in the rear yard, while Park Forest and Wilmette only allow ADUs within the principal structure. Additional direction from the Village is needed to determine which format(s) if any are appropriate in Homewood. The table shows that South Elgin and Park Forest each allow one ADU per principal dwelling unit on-site, while Willmette allows only one ADU per lot. South Elgin and Park Forest restrict the allowable size of ADUs to between 800-900 square feet, while Wilmette allows ADUs to be 25% of the area of the principal structure. Park Forest and Wilmette each require that the property owner reside on-site either in the principal or accessory dwelling unit. Further, South Elgin and Park Forest both regulate the appearance of ADUs.

Accessory Dwelling Unit Provisions in Northeast Illinois			
Provision	South Elgin	Park Forest	Wilmette
<i>Permit Procedures and Allowed Districts</i>	Permitted use in all residential zoning districts; requires site plan review by planning commission	Permitted use subject to site plan review by the Zoning Administrator in the R-1 (Single-family residence) and R-2 (Estate Residence) Districts	Special Use in the R (Single-family detached), R-1 (Single-family detached), and R-2 (Attached residence) Districts
<i>Format</i>	May be located anywhere within a principal structure; may be allowed within an accessory structure only in rear yard	Accessory structure is permitted as part of the existing principal structure such as within an attic, basement, or attached garage	An accessory living unit must be located wholly within the principal structure on the lot. No accessory living unit is permitted in any accessory structure.
<i>Number</i>	The number of accessory dwelling units shall not be greater than the number of principal dwelling units	One accessory dwelling unit is permitted per single-family dwelling unit.	Only one accessory living unit is permitted on any lot.
<i>Allowable size</i>	The maximum size of an accessory dwelling unit shall be 900 square feet.	An accessory dwelling unit may not exceed 40 percent of the gross floor area of the principal structure on the lot, or 800 square feet, whichever is less.	The maximum size of the accessory living unit is twenty-five percent of the total area of the principal structure. The minimum size of the accessory living unit shall not be less than six hundred square feet.
<i>Occupancy</i>	--	On lots with accessory dwelling units, the property owner must maintain his or her permanent residence in either the principal structure or the accessory dwelling unit.	The principal dwelling or accessory living unit must be occupied by the owner(s) of the subject property for at least six months of the year. The resident of the principal dwelling or the accessory living unit must be fifty-five years of age or older or disabled.
<i>Design</i>	An accessory dwelling unit shall be designed to be clearly secondary to the principal dwelling unit on the site. For accessory dwelling units located in an accessory structure, the exterior materials of the dwelling unit must be compatible with the primary dwelling unit, including siding and trim materials, window design, roof shape, roof pitch, and roof material.	An accessory dwelling unit may have an entrance from the exterior and/or interior of the principal structure.	--

If the Village chooses to allow accessory dwelling units, it is recommended that use-specific standards be established for the use to maintain the character of the Village's neighborhoods and reduce the overall impervious surface on residential lots. It is recommended that the Village use similar use-specific standards to those in use by other municipalities in the region, including the following requirements:

- Limit of one accessory dwelling unit per lot.
- Allowed as of right if located internally to the principal dwelling unit.
- Allowed as a special use if located within an accessory building.
- If located in an accessory building allowed to the interior side and rear of the principal building only.
- Require the property owner to live on-site in either the principal or accessory dwelling.
- If located in an accessory building limit maximum size to 20% of the lot or 900 square feet, whichever is less.
- If located internally to the principal dwelling unit, limit maximum size to 25% of the floor area of the principal dwelling unit.
- Require both the principal and accessory dwelling unit shall be served by one driveway.
- Require detached accessory dwelling units to have similar architectural features including roof pitch, windows, and materials as the principal dwelling on the lot and on adjoining lots.

Article 5: Development Standards

It is recommended that the existing sections of the Village's zoning ordinance that regulate off-street parking and loading, landscaping, screening, and fences be consolidated in Article 5: Development Standards.

Off-Street Parking and Loading

Section 11 of the Village's zoning ordinance regulates off-street parking and loading. The existing standards for dimensions and aisles and location of spaces should be carried forward as they are in keeping with modern best practices, while the standards for change in use and intensity of use, shared parking, and parking requirements should be updated.

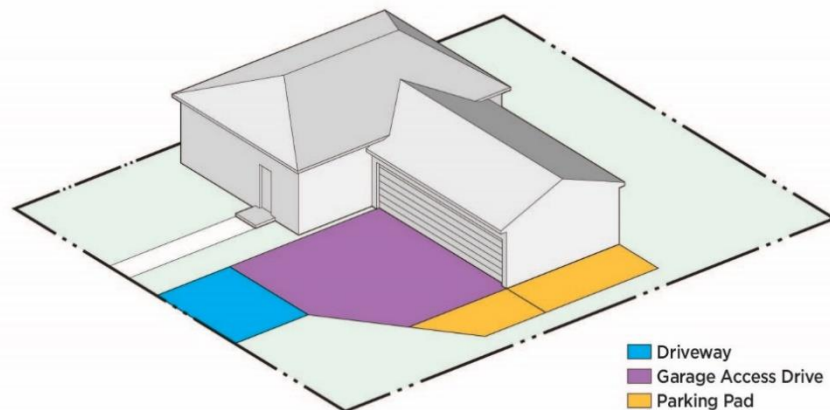
Change in Use and Intensity of Use. Currently, the Village's Ordinance requires additional parking to be established if an existing building or structure changes its use or the intensity of its use. These requirements may make it difficult for new uses to move into existing buildings or for Homewood businesses to grow and thrive. To address this, it is recommended that the requirement for additional parking to be established when a change in use occurs be eliminated and for any variable-based parking requirements that would relate to the intensity of use be replaced with a per square footage of gross floor area requirement.

Shared Parking. The Village's existing shared parking regulations only allow shared parking if the total number of spaces provided is not less than the sum of the separate requirements of each use. Shared parking is an effective tool in reducing the overall number of parking spaces if the parking is shared between uses with different typical hours of operation. It is recommended that the Village's current standards be enhanced to include an allowance for the reduction in the total number of required parking spaces if the uses have different hours of operation. A table of uses that typically have morning/daytime hours of operation and those that have evening hours of operation should be established.

Parking Requirements. Table 11.2 establishes the Village's minimum parking requirements. Although the requirements are largely in line with modern best practices, they do not restrict the maximum amount of parking that can be established. Maximum parking requirements ensure that excessive amounts of impermeable surface are not constructed, thus improving on-site stormwater management. It is recommended that the Village establish a maximum parking restriction of 50% more than the minimum requirement. Understanding that some uses may generate a need for additional parking, it is recommended that the Village allow additional parking to be constructed if it is surfaced with permeable pavement.

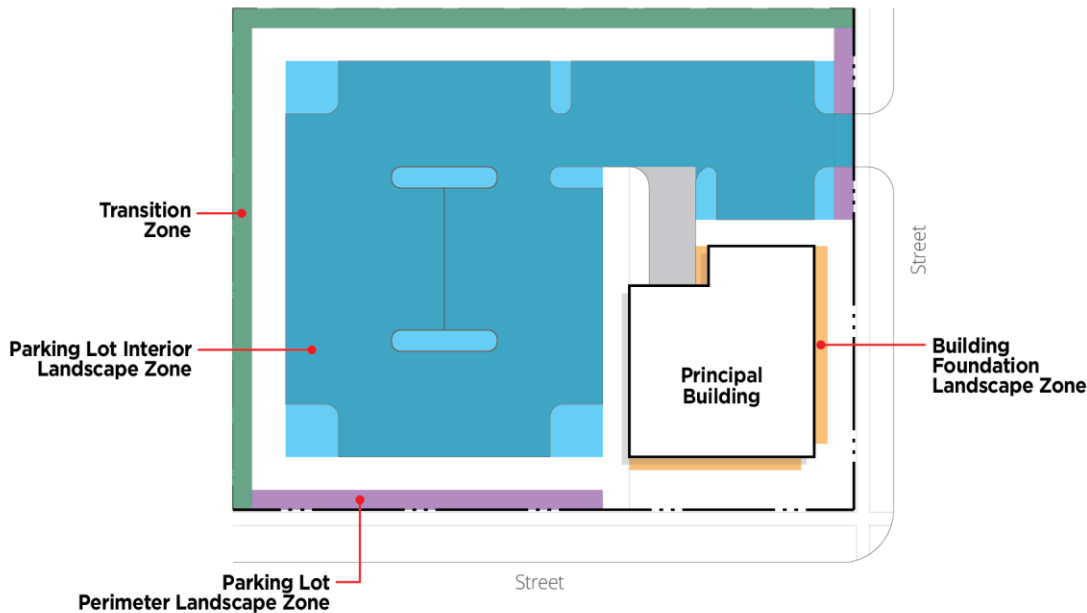
Driveways

To better regulate the design of residential driveways, it is recommended that distinct standards be established for driveways, garage access drives, and parking pads as identified in the diagram below. Additionally, flexible standards should be established to for smaller residential lots where the front and side yard setbacks are not sufficient to accommodate these areas. Further, to help residents manage onsite stormwater, it is recommended that the Village establish standards for ribbon driveways, which help to reduce the amount of necessary impervious surface.



Landscaping

It is recommended that the Village's existing landscaping requirements established in Article VIII and in the Halsted Corridor Enhancement Plan be replaced with Village-wide standards for all multi-family and nonresidential uses to ensure that parking lots and incompatible uses are properly screened, contribute to the aesthetic value of the community, and help the Village meet its environmental protection goals. Landscape requirements should be established for the perimeter of parking lots, interior of parking lots, building foundations, and transition yards as shown in the diagram below.



Additionally, it is recommended that interior parking lot landscape requirements be greater for parking lots located between buildings and public rights-of-way and lesser for parking lots located to the rear or interior side of buildings.

Screening

It is recommended that the Village replace its current screening requirements with new standards for the screening of trash and recycling receptacles; ground, wall, and roof-mounted mechanical equipment, loading docks, service areas, and drive throughs.

Fences

Currently, the Village's fence regulations are located in Section 8.2(D) of the zoning ordinance and Chapter 10, Division 3 of the Municipal Code. It is recommended that these regulations be consolidated in Article 6: Development Standards as well as clarified and enhanced. The revised fence standards should include general standards for fences in all districts including permitted location and construction standards. Then, new standards for fences on lots with single-family and two-family uses should be established that address fences in front and/or corner front yards and fences in rear and side yards. Fences in front and corner front yards should be restricted to a maximum height of 4 feet and maximum opacity of 50% with the exception of fences in a corner front yard which should be allowed to be a maximum height of 6 feet and 100% opaque if located a minimum of 6 feet from the property line and improved with landscaping. Additionally, an allowed fence materials list should be established that prohibits the use of chain link or wire mesh.

Article 6: Planned Development Standards and Procedures

It is recommended that the Village's existing planned development standards and procedures located in Article VI. - Planned Unit Developments be replaced with new a PUD process in Article 6. The updated article should rely on the standards of the underlying district, allow for site development allowances when applicants supply tangible benefits to the Village and establish explicit review standards that applications must satisfy to qualify for approval. Establishing such standards for the review of site development allowances and PUDs overall will increase certainty in the development process for applicants and will ensure that deviations from the base district result in tangible benefits to the community. It is recommended that the review standards reflect the community's goals and objectives including but not limited to:

- Preservation of open space
- Flood damage prevention/stormwater retention
- Redevelopment of underused properties
- Appropriate transitions between incompatible land uses
- Innovative site design/provision of public space

Article 7: Zoning Procedures

It is recommended that a new Article 7: Zoning Procedures be established to include the existing regulations in Article II. - Administration and Enforcement, Article VIII. - Landscaping and Screening, and Article X. - Enforcement that specify the Village's permit processes and submittal requirements; procedures for Village review; and standards for approval.

Further, it is proposed that the Article be organized to be more user friendly as outlined below:

1. General application requirements,
2. Administrative review and action procedures
3. General Board/Commission review and action procedures, including public notice requirements,
4. Special use permits,
5. Variances, and
6. Text/map amendments.

Additionally, all submittal requirements should be removed from the Ordinance and incorporated into a standalone manual to allow the Village to update them as needed without a formal text amendment process. Similarly, all fees should be established outside of the Ordinance. Finally, it is recommended that the review standards for all review and approval procedures be revised to be as objective and measurable as possible to create more predictable development processes.

Subletting of Office Space & Change of Use Permitting

The zoning ordinance currently does not define an approval process for change of use, or small alterations to existing buildings, which has allowed the establishment of some land uses that do not comply with the regulations. It is recommended that the Village establish a zoning compliance certification procedure in the new Article 7: Zoning Procedures to ensure that new uses established in existing structures that do not require a building permit comply with the zoning ordinance. The zoning administrator should be the party responsible for approving these applications. The circumstances in which the new zoning compliance certificate is required should be clearly differentiated from those in which site plan review is required and should include a change of less than 20% of the floor area of an existing building. It is recommended that the new certification procedure require applicants to provide a brief description of the use change, or a sketch drawing depicting the change to the building if a change in floor area is involved.

Standardized Intake Procedures & Internal Review Team

The existing procedures in Article II. - Administration and Enforcement do not specify a standard application intake procedure applicable to all application types, although some basic information regarding the Village parties responsible for completeness determination and application review is provided in Table 44-86. It is recommended that the Village’s application intake procedures, including the information and filing requirements that applicants must provide for each application type, and the Village parties responsible for reviewing the application be specified clearly. It is also recommended that the new Article 7: Zoning Procedures specify an internal review team comprised of Village parties to be responsible for review. Internal review teams are often comprised of the municipal zoning staff, engineering, and public service providers including fire and water. Further discussion with Village staff will be needed to determine the parties to comprise the internal review team.

Article 8: Nonconformities

It is recommended that Homewood’s provisions concerning nonconforming uses, structures, and lots of record, currently in Article IX. - Nonconformities of the zoning ordinance, be moved to the new Article 8. The standards should be updated as necessary to comply with state requirements.

Article 9: Definitions

It is recommended that all of the definitions included in the zoning ordinance be consolidated to Article 9. Definitions for permitted uses that are eliminated in the updated ordinance will need to be removed from the article, while definitions for new land uses included as part of the update should be added. Recommended definitions for the updated “Personal Service” and “Professional Office” uses are detailed below.

Personal Service. An establishment primarily engaged in rendering services to individuals and business establishments which services cannot be categorized into one of the other defined Service Use categories in this Title. The services are typically provided without the retail sale of products or which such product sales are incidental to the service-driven purposes of the establishment, such as a beauty salon or barber shop.

Professional Office. All exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or on-appointment basis.

The following definitions revisions are also recommended:

- All existing definitions that include measurements and quantifiable standards be removed from the Definitions Article and incorporated elsewhere in the ordinance as appropriate.
- Definitions for terms that are used in reference to other terms should be eliminated.
- Definitions for adult uses, family, signs, and group homes be reviewed for compliance with federal and state statutes.
- Definitions that are used together such as “rear lot line” and “front lot line”, should be ordered together, rather than alphabetically.

Religious Land Use and Institutionalized Persons Act Compliance

The Religious Land Use and Institutionalized Persons Act (RLUIPA), effective since September 2000, mandates that land use regulations must:

- Grant “equal treatment” to a religious assembly or institution as compared with a nonreligious assembly or institution;
- Not discriminate on the basis of religion or religious denomination;
- Not totally exclude religious assemblies or institutions; or
- Not unreasonably limit religious assemblies or institutions within a jurisdiction.

RLUIPA does not exempt religious institutions from land use regulations, however, it offers religious institutions the opportunity to challenge regulations when they pose a substantial burden.

Relevant Case Law

In *Lighthouse Institute for Evangelism v. City of Long Branch*, 510 F3d 253 (3rd Cir 2007), cert den 128 S Ct 2503, 171 L Ed 2d 787 (2008), the zoning ordinance for a downtown commercial district permitted a variety of uses, including an “assembly hall,” but did not permit churches. The Third Circuit construed the equal terms provision at 42 USC 2000cc-(b)(1) to require that a person asserting a claim under the equal terms provisions must show (1) it is a religious assembly or institution, (2) subject to a land use regulation, which regulation (3) treats the religious assembly on less than equal terms with (4) nonreligious assembly or institution (5) that causes no lesser harm to the interests the regulation seeks to advance. 510 F3d at 270. The Court found that “it is not apparent from the allowed uses why a church would cause greater harm to regulatory objectives than an ‘assembly hall’ that could be used for unspecified meetings[.]” and concluded that the zoning code violated the equal terms provision. *Id.* at 272.

The Third Circuit required a showing under the fifth element listed above, the zoning scheme permits a nonreligious assembly or institution that “causes no lesser harm to the interests the regulation seeks to advance.” The Third Circuit test rejects strict scrutiny in favor of “strict liability,” that is, if the regulation treats religious assemblies on less than equal terms with nonreligious assemblies that are no less harmful to the regulatory objective, and then the regulation fails, without more. According to the Third Circuit, Congress explicitly required strict scrutiny in evaluating claims under the “general rule” at 42 USC 2000cc-(a) but did not similarly specify that strict scrutiny should be applied to equal terms and discrimination claims under 42 USC 2000cc-(b). *Id.* at 269.7.

In summary, this case clarified that in a business district where a municipality permits a city hall, library, fraternal organization, or other non-taxing institution or place of assembly, the municipality must also permit a religious institution. In a business district that establishes the intent of creating tax revenue for the municipality, a municipality can prohibit a religious institution, but only if the municipality also prohibits other non-taxing institutions or assemblies.

Zoning Ordinance Review and Recommendations

District Purpose and Intent. As detailed by the Third Circuit, the equal terms provision of RLUIPA requires that any restriction on land use be justified by the intent and purpose of that regulation. This interpretation of RLUIPA allows for a municipality to protect areas intended for commercial uses and the generation of tax revenue from uses that are tax exempt. In order to comply with this interpretation of the law, it is recommended that the Village of Homewood revise the intent and purpose of all business districts to reflect this interest. The following language is recommended:

“It is the intent and purpose of this district to protect areas for commercial development and the generation of property tax revenue from the encroachment of nontaxable bodies including non-commercial places of assembly as defined in this Ordinance.”

Uses. The Village currently has many uses that could be interpreted as places of assembly or places of worship or would contradict the proposed business district purpose and intent statement additions detailed above. To ensure compliance with RLUIPA, it is recommended that these uses be replaced with the uses listed below:

- **Non-commercial Place of Assembly:** “A building or outdoor area operated not for profit wherein individuals or groups of people gather for an attraction or service, such as but not limited to, community centers, fraternal or civic organizations, lodges, libraries, museums, municipal buildings, auditoriums, or religious institutions. Non-commercial place of assembly shall also include places of worship, nonprofits, or quasi public uses such as but not limited to fellowship halls, parish halls, and similar buildings used for meetings, religious education, and similar functions, but excluding licensed child or adult daycares, playgrounds, cemeteries, public or private primary and secondary schools, colleges and universities, hospitals, sanitariums, nursing homes, public administrative offices, public service buildings, and public utility offices”.
- **Commercial Place of Assembly:** “A building or outdoor area operated for profit wherein individuals or groups of people gather for an attraction or service such as but not limited to movie theaters, banquet halls, sports arenas, funeral parlors, health clubs, gyms, or conference centers.”

The following table summarizes how each of the proposed uses are proposed to be allowed in the Village’s districts.

Use	R-1	R-2	R-3	R-4	B-1	B-2	B-3	B-4	M-1	M-2	PL-1	PL-2
<i>Religious and Assembly Uses</i>												
Non-commercial Place of Assembly	S	S	S	S							S	S
Commercial Place of Assembly					S	S	S	S			S	S

Districts. It is recommended that the Village consider rezoning all noncommercial places of assembly in Homewood to either a residential district or PL district to ensure that existing uses do not become legally nonconforming. To avoid spot zoning, the noncommercial places of assembly should be rezoned to a residential or PL district adjacent to the subject parcel.