

*City  
of  
Hillsboro,  
Illinois*

*Zoning  
Code*

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## **CHAPTER 40 – ZONING CODE**

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**CHAPTER 40**  
**ZONING CODE**  
**ARTICLE I – GENERAL PROVISIONS**

**40-1-1           TITLE.** This Code shall be known as and cited as the "Zoning Code of the City of Hillsboro, Illinois".

**40-1-2           PURPOSE.** In accordance with State Law, this Code regulates lots, structures, and uses in order to preserve, protect, and promote the public health, safety, and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

- (A) To encourage the development of buildings and uses on appropriate sites in order to maximize community-wide social and economic benefits while accommodating the particular needs of all residents, and to discourage development on inappropriate sites;
- (B) to assist in implementing the City Community Plan;
- (C) to protect and enhance the character and stability of sound existing residential, commercial, and industrial areas, and to gradually eliminate nonconforming uses and structures;
- (D) to conserve and increase the value of taxable property throughout the City;
- (E) to ensure the provision of adequate lights, air, and privacy for the occupants of all buildings;
- (F) to protect persons and property from damage caused by fire, flooding, and improper sewage disposal;
- (G) to provide adequate and well-designed parking and loading space for all buildings and uses, and to reduce vehicular congestion on the public streets and highways;
- (H) to ensure the proper design and improvement of manufactured home parks;
- (I) to promote the use of signs which are safe, aesthetically pleasing, compatible with their surroundings, and legible in the circumstances in which they are seen; and
- (J) to provide for the efficient administration and fair enforcement of all the substantive regulations in this Code. (65 ILCS 5/11-13-1)

**40-1-3           JURISDICTION.** This Code shall be applicable only within the corporate limits of the City and one and one-half (1 1/2) miles outside of the City limits of Hillsboro.

- (A) Territory situated outside the corporate limits shall be in the same zoning district as the territory most nearly adjacent thereto situated within the City limits. (Ord. No. 1381; 02-24-04)

**40-1-4           INTERPRETATION, CONFLICT WITH OTHER ORDINANCES.** Every provision of this Code shall be construed liberally in favor of the City and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted and effective ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

**40-1-5           DISCLAIMER OF LIABILITY.**

- (A) Except as may be provided otherwise by statute or ordinance, no official, board member, agent, or employee of the City 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 Code. (See "Local Governmental and Governmental Employees Tort Immunity Act", 765 ILCS 10/1-101)

**(B)** Any suit brought against any official, board member, agent, or employee of the City as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the City Attorney until the final determination of the legal proceedings.

**40-1-6      SEVERABILITY.** If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

**40-1-7      REVIEW.** This Code shall be reviewed every **five (5) years** after its effective date by the Zoning Board of Appeals. After the review, they shall file their reports and recommendations with the Mayor and the City Council.

## ARTICLE II - DEFINITIONS

**40-2-1 CONSTRUCTION OF TERMS.** In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

- (A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English dictionary meanings.
- (B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.
- (C) Words used in the present tense shall include the future tense.
- (D) Words used in the singular number shall include the plural number, and the plural shall include the singular.
- (E) The term "shall" is mandatory; the term "may" is discretionary.
- (F) All distances shall be measured to the nearest integral foot; six (6) inches or more shall be deemed **one (1) foot**.
- (G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.
- (H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

**40-2-2 SELECTED DEFINITIONS.**

**"ABUTTING"** means having a common lot line or district line. (Synonym for "adjacent" or "adjoining".)

**"ACCESS WAY"** means a curb cut, ramp, driveway, or other means for providing vehicular access to an off-street parking or loading area.

**"ACCESSORY USE"** means any structure or use that is:

- (A) subordinate in size or purpose to the principal structure or use which it serves;
- (B) necessary or contributing to the comfort and convenience of the occupants of the principal structure or use served; and
- (C) located on the same lot as the principal structure or use served.

**"ADMINISTRATOR"** means the official appointed by the Mayor, with the advice and consent of the City Council, or his representative to administer this Code. (Synonymous with "Zoning Administrator" or "Zoning Officer".)

**"AGRICULTURE"** means any one or any combination of the following: The growing of farm or truck garden crops, dairying, pasturage, horticulture, floriculture, or animal/poultry husbandry. The term "agriculture" encompasses the farmhouse and accessory uses and structures customarily incidental to agricultural activities.

**" AISLE"** means a vehicular traffic-way within an off-street parking area, used as a means of access/egress from parking spaces.

**"ALLEY"** means a public right-of-way which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

**"ALTER"** means to change the size, shape or use of a structure, or the moving from one location to another.

**"AMENDMENT"** means a change in the provisions of this Code (including the District Map), properly affected in accordance with State Law and the procedures set forth herein.

**"ANCHOR"** means any approved device to which a manufactured home is tied down to keep it firmly attached to the stand on which it is placed.

**"APARTMENT".** One (1) or more rooms in an apartment building or combination apartment and commercial building, arranged, intended or designed or occupied as a dwelling unit of a single family, an individual, or a group of individuals.

**"ATTACHED"**, as applied to buildings, means having a common wall and/or a common roof.

**"BASEMENT"** means a story having more than **one-half (1/2)** of its height below the average level of the adjoining ground.

**"BILLBOARD"** means any single- or double-faced sign displaying messages or advertising not associated with the premises on which the sign is located or to which it is affixed.

**"BITUMINOUS CONCRETE"** means a mixture of petroleum byproducts and gravel used for paving to form a smooth, permanent surface. It does not mean "oil and chip".

**"BLOCK"** means an area of land entirely bounded by streets, highways, barriers, or ways (except alleys, pedestrian ways or exterior boundaries of a subdivision unless the exterior boundary is a street, highway, or way), or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways or corporate boundary lines.

**"BOARD OF APPEALS"** means the Zoning Board of Appeals of the City.

**"BOARDING HOUSE"** means a building other than a hotel or restaurant where meals are provided for compensation to **three (3)** or more persons, but not more than **ten (10)** who are not members of the keeper's family, but not open on a daily, overnight or per meal basis to transient guests.

**"BUFFER STRIP"** means an area of land undeveloped except for landscaping fences, etc., used to protect a use situated on **one (1)** lot from the deleterious effects of the use on the adjacent lot.

**"BUILDING"** means any covered structure permanently affixed to land and designed or used to shelter persons or chattels.

**"BUILDING LINE"** means the line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

**"BUILDING LINE, REAR"** means a yard which is bounded by side lot lines, rear lot line and rear yard line.

**"BUILDING LINE, SIDE"** means a yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

**"BUILDING OR STRUCTURE HEIGHT"** means the vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

**"BULK"** means any one or any combination of the following structural or site design characteristics:

(A) Size or height of structure;

- (B) location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) lot area;
- (D) yards or setbacks.

**"CENTERLINE"** means:

- (A) The centerline of any right-of-way having a uniform width;
- (B) The original centerline where a right-of-way has been widened irregularly;
- (C) The new centerline, whenever a road has been relocated.

**"CERTIFICATE OF ZONING COMPLIANCE"** means a form issued by the Administrator indicating that a lot or newly completed structure or use complied with all pertinent requirements of this Code and therefore, may be occupied or used.

**"CITY"** means either the territory or the local government of the Municipality.

**"CLINIC"** means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons, but who are not provided with room or board nor kept overnight on the premises.

**"CLUB/LODGE"** means a non-profit association of persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

**"COMMERCIAL SOLAR ENERGY FACILITY" OR "COMMERCIAL SOLAR ENERGY SYSTEM"** means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property.

**"COMMERCIAL USE/ESTABLISHMENT"** means any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

**"CONFORMING"** means in compliance with the applicable provisions of this Code.

**"CONVENIENCE/GASOLINE SERVICE STATION"** means a building or premises or portion thereof used for retail sales of gasoline, oil and accessories of motor vehicles, and general convenience service goods to include the retail sale of alcoholic beverages, not for consumption on the premises where it is sold.

**"CORRECTIVE ACTION ORDER"** means a legally binding order issued by the Administrator in accordance with the procedures set forth herein to affect compliance with this Code.

**"DAY CARE CENTER"** means an establishment for the part-time care and/or instruction at any time of day of four (4) or more unrelated children of pre-elementary or elementary school age.

**"DETACHED"**, as applied to buildings, means surrounded by yards on the same lot as the building.

**"DEVELOP"** means to erect any structure or to install any improvements on a tract of land or to undertake any activity (such as grading) in preparation, therefore.

**"DIMENSIONS"** refers to both lot depth and lot width.

**"DISTRICT, ZONING"** means a portion of the territory of the City wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

**"DRIVEWAY"** means a minor way commonly providing vehicular access to a garage or off-street parking area.

**"DRIVE-IN RESTAURANT"**. An establishment principally used for the sale of fast order food. Fast order food means food that is:

- (A) Primarily intended for immediate consumption;
- (B) Available after a short waiting time; and
- (C) Packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

**"DWELLING"** means a building or portion thereof designed or used primarily as living quarters for one (1) or more families, but not including hotels, motels, or other accommodations for the transient public.

**"DWELLING, MULTIPLE-FAMILY"** means a building or portion thereof containing three (3) or more dwelling units.

**"DWELLING, SINGLE-FAMILY"** means a dwelling containing one (1) dwelling unit and intended for the occupancy of one (1) family.

**"DWELLING, TWO-FAMILY"** means a dwelling containing two (2) dwelling units.

**"DWELLING UNIT"** means two (2) or more rooms designed or used as living quarters by one (1) family. A "dwelling unit" always includes a bathroom and a kitchen.

**"EASEMENT"** means a right to use another person's real property for certain limited purposes.

**"EDUCATIONAL INSTITUTION"** means a public, parochial, charitable, or non-profit junior college, college or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers, and employees.

**"ENCLOSED"** as applied to a building, means covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

**"ENLARGE"** means to increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

**"ERECT"** means to build or construct.

**"ESSENTIAL GOVERNMENTAL OR PUBLIC UTILITY SERVICES"**. The erection, construction, alteration, or maintenance by public utilities or municipal departments, or underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including buildings.

**"ESTABLISHMENT"** means either of the following:

- (A) An institutional, business, commercial, or industrial activity that is the sole occupant of one (1) or more buildings; or
- (B) An institutional, business, commercial, or industrial activity that occupies a portion of a building such that:
  - (1) the activity is a logical and separate entity from the other activities with the building and not a department of the whole; and
  - (2) the activity has either a separate entrance from the exterior of the building or a separate entrance from a common and clearly defined entry way that has direct access to the exterior of the building.

**"EXISTING"** means actually constructed or in operation on the effective date of this Code.

**"FAMILY"** means:

- (A) A single individual doing his own cooking and living upon the premises as a separate dwelling or housekeeping unit; or
- (B) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption or employment as domestic servants; or
- (C) A group of not more than three (3) unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity, or hotel).

**"FLOOR AREA, GROSS"** means the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. "Gross floor area" includes basement floors, attic floor space, halls, closets, stairwells, space devoted to mechanical equipment, and enclosed porches.

**"FREIGHT TERMINAL"** as applied to motor carriers subject to the 625 ILCS 18, a station for commercial motor vehicles wherein said motor trucks are stored, repaired or parked.

**"FRONTAGE"** means the lineal extent of the front (street side) of a lot or establishment.

**"GARAGE, PRIVATE"** means a garage for four (4) or less passenger motor vehicles without provision for repairing or servicing such vehicle(s) for profit.

**"GREENHOUSE".** (See "Nursery")

**"GROUP HOME".** Any building designed as a single-family residence building and occupied by related or unrelated individuals living together as a group. The term "group home" shall not include the business of operating a boarding house, rooming house or other similar enterprise. The term "group home" shall include a home for adolescents, a home for physically handicapped persons, and a home for mentally handicapped persons. The term "group home" shall not include any penal institutions or places for persons convicted of a crime, persons found to be juvenile delinquents, or juveniles found to be persons in need of supervision.

**"HEREAFTER"** means any time after the effective date of this Code.

**"HOME OCCUPATION"** means any business, profession, or occupation conducted for gain entirely within a dwelling or on residential premises in conformity with the provisions of this Code.

**"HOSPITAL"** means an institution devoted, on an around-the-clock basis, to the maintenance and operation of facilities for the diagnosis, treatment, or care of members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Ordinance includes sanitariums but excludes institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, and convalescent/nursing homes.

**"HOTEL"** means a building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment house.

**"IMMOBILIZE"** means as applied to a manufactured home, "immobilize" means to remove the wheels, tongue, hitch, and the installation of skirting and anchoring devices.

**"INTERSECTION"** means the point at which **two (2)** or more public rights-of-way (generally, streets) meet.

**"JUNK YARD"** means a tract of land, including any accessory structures thereon, that is used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition (or parts thereof), and metals, glass, paper, plastic, rags, and rubber tires. (A lot on which **one (1)** or more inoperable or abandoned vehicles are stored shall be deemed a junk yard.) A junk yard includes an automobile wrecking yard.

**"KENNEL".** Any structure or lot on which **three (3) or more** domesticated animals over **four (4)** months of age are kept.

**"LANDSCAPE FENCE"** means a non-obstructive fence, no greater than **four (4) feet** in height, of approved design and materials. Picket, split rail, and wrought iron fences are acceptable within this definition. Examples of unacceptable fence types include privacy, chain link, and welded wire.

**"LOADING SPACE".** An off-street space or berth on the same lot with a building, or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

**"LOT"** means a tract of land intended as a unit for the purpose (whether immediate or future) of transfer of ownership or development. A "lot" may or may not coincide with a "lot of record".

**"LOT, CORNER"** means a lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

**"LOT, THROUGH"** means a lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

**"LOT AREA"** means the area of a horizontal plane bounded by the front, side, and rear lines of a lot. Application of the minimum lot width and minimum lot depth shall not be construed to satisfy minimum lot size.

**"LOT COVERAGE"** means the portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

**"LOT DEPTH"** means the average horizontal distance between the front lot line and the rear lot line of a lot.

**"LOT LINE, FRONT"** means the lot line abutting the street right-of-way!

**"LOT LINE, REAR"** means an interior lot line which is most distant from and most nearly parallel to the front lot line.

**"LOT LINE, SIDE"**. Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. (A side lot line separating a lot from another lot or lots is called an interior side lot line.)

**"LOT OF RECORD"** means an area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

**"LOT SIZE REQUIREMENTS"** refers to the lot area, width and depth requirements of the applicable district.

**"LOT WIDTH"** means the mean horizontal width of a lot measured at right angles to the side lot lines (at the building line).

**"MAINTENANCE"** means the routine upkeep of a structure, premises or equipment including the replacement or modification of structural components to the extent necessary to keep said structure in sound condition.

**"MANUFACTURED HOME"** means a movable or portable unit constructed to be towed in one (1) or more sections on its own chassis (comprised of frame and wheels) from the place of construction to the location or subsequent locations and designed to be used as a dwelling with or without a permanent foundation and connected to utilities for year-round occupancy with or without a permanent foundation. The term shall include: (1) units containing parts that may be folded, collapsed, or telescoped when being towed and that may expand to provide additional cubic capacity, and (2) units composed of two (2) or more separated again into the components for repeated towing. The term shall include units designed to be used for residential, commercial, educational or industrial purposes, excluding, however, recreational vehicles. All units shall be a minimum of **eight hundred fifty (850) square feet**. Such units manufactured after **June 15, 1976**, are known as "manufactured homes" and must bear a red metal label on the exterior of the home signifying compliance with the Federal Manufactured Home Construction and Safety standards and have a title as proof of ownership. (Ord. No. 1125; 09-10-91)

**"MANUFACTURED HOME; IMMOBILIZED"** means any manufactured home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The City Council establishes the following criteria to complete the immobilization of a manufactured home:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation.

(B) As an alternative to paragraph (A) above, piers may be used, extending into the ground below the frost line and sufficient in number to properly support the manufactured home.

**"MANUFACTURED HOME PARK"** means a parcel of not less than **five (5) acres** in area in single ownership/control, developed with facilities for accommodating occupied manufactured homes in accordance with the requirements of this Code, and the "Revised Code of Ordinances".

**"MANUFACTURED HOME SPACE"** means a portion of a manufactured home park designed and improved for the placement of one manufactured home and the private use of the occupants thereof.

**"MANUFACTURED HOME STAND"** means the part of a manufactured home space beneath the manufactured home that includes the concrete slab on which the home is placed and to which it is anchored.

**"MARQUEE OR CANOPY"** means a rooflike structure of a permanent nature which projects from the wall of a building and overhangs the public way.

**"MOBILE OR PORTABLE MARQUEE"** is a term used to describe any sign designed to be moved from place to place, including, but not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard, or canvas signs wrapped around supporting poles.

**"MODULAR UNITS"** means a building assembly or system of building sub-assemblies, designed for habitation as a dwelling for **one (1)** or more persons, including the necessary electrical, plumbing, heating, ventilating and other service systems, which is of closed or open construction and which is made or assembled by a manufacturer, on or off the building site, for installation, or assembly and installation, on the building site, attached to a permanent perimeter foundation which extend below the frost depth. **This unit must display a yellow seal on the electrical panel box denoting approval by the Illinois Department of Public Health.**

**"MOTEL OR MOTOR HOTEL"** means a series of attached, semi-attached or detached sleeping or living units for the accommodation of transient guests and not customarily including individual cooking or kitchen facilities; said units having convenient access to off-street parking spaces for the exclusive use of the guests or occupants.

**"NONCONFORMING"**, as applied to a lot, structure or use, means:

- (A) lawfully existing on the effective date of this Code, but
- (B) not in compliance with the applicable provisions thereof.

**"NUISANCE"** means anything, condition, or conduct that endanger health or unreasonably offends the senses or obstructs the free use of property or essentially interferes with the comfortable enjoyment of life or property. **(See Chapter 25 of the City Code)**

**"NURSERY"** means a tract of land on which trees, shrubs, and other plants are raised for transplanting and/or sale and including any structure in which said activities are conducted.

**"NURSERY SCHOOL" OR "DAY CARE CENTER"** means an establishment for the part-time care and/or instruction at any time of day of **four (4)** or more unrelated children of pre-elementary or elementary school age.

**"NURSING HOME"** means a building used as a medical care facility for persons who need nursing care and medical service, but do not require intensive hospital care.

**"OFFICE"** means any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

**"OFFICIAL MAP"** means the portion of the master plan which designates land necessary for public facilities or uses. It shall include streets, alleys, public ways, parks, playgrounds, school sites and other public grounds and ways for public service facilities within the whole area included within the official comprehensive plan. It can be **one (1)** or more separate geographical or functional parts or include all or any part of the contiguous, unincorporated area under the planning jurisdiction of the City.

**"OVERLAY DISTRICT"** means a zoning district superimposed over one (1) or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, flooding, etc.

**"PARKING AREA/LOT, OFF-STREET"** means land that is improved in accordance with this Code and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking lot", depending on the circumstances of its use, may be either a principal use or an accessory use.

**"PARKING LOT - COMMERCIAL"** means land that is improved in accordance with this Code and shall be limited to automobiles and trucks one (1) ton and under.

**"PARKING SPACE, OFF-STREET"** means an area at least twenty (20) feet long and ten (10) feet wide within an off-street parking area or garage, used for the storage of one (1) passenger motor vehicle.

**"PERMITTED USE"** means any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to such district(s).

**"PERSON"** means any individual, firm, association, organization, or corporate body.

**"PLANNED DEVELOPMENT PROJECT"** means a residential or commercial development on a parcel of land in single ownership and consisting of two (2) or more buildings having any yard, court, parking or loading space in common.

**"PREFABRICATED HOUSING"** means a partially constructed factory fabricated building unit which will be substantially assembled onsite, utilizing premanufactured component parts. This term shall not be construed to include "manufactured homes", "immobilized manufactured homes" or "modular homes".

**"PREMISES"** means a lot and all the structures and uses thereon.

**"PRINCIPAL BUILDING/STRUCTURE/USE"** means the main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

**"PROFESSIONAL OFFICE"** means an office (other than a service office and other than an office for care and/or treatment of or medical attention to, animals as distinguished from persons) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, or engineers qualified to perform services of a professional nature, or the offices of a governmental agency; and where there is no storage, sale or display of merchandise on the premises.

**"PROPERTY LINE".** See "Lot Line".

**"PUBLIC BUILDINGS"** means any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

**"PUBLIC OPEN SPACE"** means any publicly-owned open area, including, but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways, and streets.

**"PUBLIC UTILITIES"** means utilities which are either government-owned or owned by an established firm serving a wide geographical area and/or a substantial number of persons.

**"QUICK SHOP"** means any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multi-family complex, manufactured home park or similar development.

**"RECONSTRUCT"**, as applied to nonconforming structures, means to rebuild after damage or destruction.

**"REFUSE"** means garbage (food waste) and trash, but not sewage or industrial wastes.

**"RELOCATE"** means to move to another portion of a lot or to a different lot.

**"REPAIR"** means to restore to sound condition, but not to reconstruct.

**"RESTRICTIVE"** means tending to keep within prescribed limits.

**"RETAIL"** refers to the sale of goods or services directly to the consumer rather than to another business.

**"RIGHT-OF-WAY, PUBLIC"** means a strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys.

**"ROOF LINE"** means a horizontal line parallel to the average ground level of a building along the front thereof, which line delineates the highest point of a flat roof; or where the flat surface area of a gable, hip, mansard, or gambrel roof is in view from the ground level, the line of demarcation between the flat surface and the vertically structured facade; or the line along the front of a building delineating the roof line between eaves and ridge for gable, hip, and gambrel roofs.

**"SATELLITE DISH"** means a dish shaped antenna used to receive signals from satellites.

**"SCREENING"** means trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

**"SEMI-FINISHED MATERIALS"** means materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state but are readily usable by light industry for assembly or manufacture into consumer goods.

**"SERVICE BUILDING"** means a structure within a manufactured home park or travel trailer park that contains toilet facilities, clothes washers and dryers and in some instances, a convenience store.

**"SERVICE STATION"** means a building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

**"SERVICE USE/ESTABLISHMENT"** means any use or establishment where services are provided for remuneration either to individuals or to other firms.

**"SETBACK"** means the horizontal distance from the lot line in question to the side of the structure facing that lot line or to the edge of the area of operation of the principal use (in the case of a use which does not involve a structure).

**"SEWAGE TREATMENT PLANT, PRIVATE"** shall mean any properly constructed disposal system intended for the treatment of wastewater from more than **one (1) residence** and/or building unit.

**"SIGN"** means any object, device, display, or structure or part thereof used to advertise, identify, display, or attract attention to a person, establishment, product, service, or event by any means including words, letters, figures, designs, symbols, fixtures, colors, illuminations, etc. The term "sign" includes, but is not limited to, every projecting sign, freestanding sign, awning, canopy, marquee sign; changeable copy sign, illuminated sign; moving sign, temporary sign; portable sign; or other display whether affixed to a building or erected elsewhere on the premises. The term "sign" excludes features of a building which are an integral part of the building's design (e.g., the "castlelook" of a White Castle restaurant).

**"SIGN, CANOPY/MARQUEE"** means any sign affixed to, painted on, or suspended from an awning, canopy, marquee, or similar overhang.

**"SIGN, FLUSH-MOUNTED"** means any sign attached to or erected against a wall of a structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall and not projecting more than **eighteen (18) inches**. A flush-mounted sign displays only messages associated with the building to which said sign is attached.

**"SIGN, FREESTANDING"** means any sign supported by one or more uprights, poles, or braces placed in or upon the ground; or any sign supported by any structure erected primarily for the display and support of the sign; provided that a freestanding sign displays only messages associated with the structure to which it is attached.

**"SIGN, PROJECTING"** means any sign which is suspended from or supported by a wall, awning, canopy, marquee, etc., and which is approximately perpendicular thereto. A projecting sign displays only messages associated with the structure to which it is attached.

**"SIGN AREA"** means the entire area within a single, continuous perimeter enclosing the extreme limits of the message and the background thereof, calculated in accordance with the provisions of this Code.

**"SIGN AREA ALLOWANCE"** means the maximum total sign area of all signs that an establishment is permitted to display.

**"SKIRTING"** means the covering affixed to the bottom of the exterior walls of a manufactured home to conceal the underside thereof.

**"SPECIAL USE"** means a use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district and are allowed only by permit.

**"SPECIAL-USE PERMIT"** means a permit issued in accordance with the provisions of this Code to regulate development of a special use.

**"STOP ORDER"** means a type of corrective action order used by the Administrator to halt work in progress that is in violation of this Code.

**"STORAGE CONTAINER"** means a structure consisting of either a demobilized train or railroad car, a truck body or a shell or truck trailer licensed or unlicensed. (See Section 40-5-15)

**"STREET"** means a public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, throughway, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

**"STREET, PRIVATE"** means any street providing access to abutting property that is not maintained by and dedicated to the Municipality or other public entity.

**"STRINGENT"** means binding and/or exacting.

**"STRUCTURE"** means anything constructed or erected on the ground or attached to something having a fixed location on the ground. All buildings are structures, but not all structures are buildings.

**"TOPOGRAPHY"** means the relief features or surface configuration of an area.

**"USE"** means the purpose or activity for which the land or a structure thereon is designed, arranged, intended, occupied, or maintained.

**"USE VARIANCE"** means a type of amendment (not a variance) that allows a use in a district where said use would not be allowed under existing provisions of this Code.

**"UTILITY SUBSTATION"** means a secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

**"VACANT"** as applied to a lot, means that no structure is situated thereon.

**"VARIANCE"** means a relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

**"WHOLESALE"** refers to the sale of goods or services by one business to another business.

**"WINDOW SIGN"** means any sign visible from the exterior of a building or structure which is painted directly on the surface of a window or affixed to or suspended immediately behind the window for the purpose of informing passersby of the identity of the proprietor or business, or of the product or service which can be obtained on the premises.

**"YARD"** means open space that is unobstructed, except as specifically permitted in this Code and that is located on the same lot as the principal building.

**"YARD, FRONT"** means a yard which is bound by the side lot lines, front lot line, and the building line.

**"YARD LINE"** means a line in a lot that is generally parallel to the lot line along which the yard in question extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

**"ZONING ADMINISTRATOR"; "ZONING OFFICIAL" OR "ZONING OFFICER"** means the Zoning Administrator of the City or his authorized representative.

**"ZONING MAP"** means the map(s) and any amendments thereto designating zoning districts and incorporated into this Code by reference.

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## **ARTICLE III - GENERAL ZONING REGULATIONS**

## **DIVISION I - GENERALLY**

**40-3-1 ESTABLISHMENT OF DISTRICTS.** In order to implement the regulatory scheme of this Code so as to achieve the objectives enumerated in **Section 40-1-2**, the entire City is hereby divided into the following Zoning Districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Agricultural	A-1	3 Acres
Agricultural (Solar)	A-2	3 Acres
Single-Family Residence (Large)	R-1	5 Acres
General Residence (Small)	R-2	3 Acres
Multi-Family	MR-1	3 Acres
Manufactured Housing	MH-1	2 Acres
General Business	B-1	1 Acre
Highway Business	B-2	2 Acres
Industrial (Manufacturing)	1-1	5 Acres
Flood Plain Overlay	O-FP	None

\* The "minimum area" requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the acreage of numerous noncontiguous parcels, when aggregated, happens to equal or exceed the minimum area indicated above.

**40-3-2      ZONING MAP AND DISTRICT BOUNDARIES.** The boundaries of the listed zoning districts are hereby established as shown on the Official Zoning Map of the City. This map, including all notations and other information thereof, is hereby made a part of this Code by reference. The Official Zoning Map shall be kept on file in the Administrator's office.

**40-3-3                   ANNUAL PUBLICATION.** In accordance with State Law, if any changes are made in the zoning districts or regulations during a calendar year, the Zoning Administrator shall publish the revised official zoning map of the City not later than **March 31<sup>st</sup> of the following year.** (65 ILCS 5/11-13-19)

**NOTE:** The map shall be published if there are any annexations.

**40-3-4                    DETERMINING TERRITORY OF DISTRICTS WITH PRECISION.** In determining with precision what territory is actually included within any zoning district, the Administrator shall apply the following rules:

(A) Where a district boundary as indicated on the zoning map approximately follows any of the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:

(1) Center line of any street, alley,  
or highway such center line

(2)      **Lot line**

**such lot line**

(3)	Railroad tracks	right-of-way line of such tracks
(4)	Stream	center of such stream
(5)	Section, fraction or survey lines	such lines

(B) Whenever any street, alley, or other public way is legally vacated, the zoning districts adjoining each side of such vacated public way shall automatically extend to the center of such way, and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts.

**40-3-5 ANNEXED TERRITORY.** Any territory hereafter annexed to the Municipality shall automatically be in the R-1, Single Family Residence District until duly changed by an amendment to this Code; except that the City Council, with the advice of the Zoning Board, may annex any territory as any other zoning district or districts herein established if all legal requirements for zoning the property at the time of the annexation and the requirements for amending this Code by the extension of the zoning district provisions are met. (See Sec. 40-10-30 for amendments)

**40-3-6 GENERAL PROHIBITION.** Hereafter, it shall be unlawful to do the following within the City:

- (A) Erect, use, occupy, enlarge, alter, relocate, or reconstruct any structure or part thereof;\*
- (B) to create any lot;\* or
- (C) to use, occupy, or develop any lot or part thereof;\*

\*EXCEPT in conformity with the provisions of this Code.

**40-3-7 UNLISTED USES PROHIBITED.** Whenever any use is not specifically listed as "permitted" or "special" within a particular zoning district, such use shall be deemed prohibited in that district. However, if the City Council, following consultation with the Zoning Administrator and the Zoning Board of Appeals finds that the unlisted use is similar to and compatible with the listed uses, they may allow such use. The decision of the City Council shall become a permanent public record and any unlisted use that they approve shall thereafter have the same status as listed uses.

**40-3-8 MEETING MINIMUM REQUIREMENTS.** Except as specifically provided otherwise elsewhere in this Code, every lot must meet the minimum area, minimum dimensions, and minimum setback requirements of the district in which it is located independently; that is, without counting any portion of any abutting lot.

**40-3-9 ACCESS REQUIRED.** No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to a public street or private street.

**40-3-10 FRONT SETBACKS - CORNER/THROUGH LOTS.** Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage. (See Sketch at end of Code)

**40-3-11 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS.** Except as specifically provided otherwise in the "B-1" - General Business District and in all residential zoning districts where lots having **fifty percent (50%)** or more of the frontage on **one (1) side** of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block

shall be the average of the existing front setbacks, but no less than **five (5) feet**, provided, however, that in any built-up area, no front setback greater than **fifty (50) feet** shall be required.

(A) **Residential Exception.** Where all of the improved lots in any **one (1) block** (including a minimum of **three (3) improved lots**) are developed with buildings which establish a set back greater than **twenty (20) feet**, and said improved lots comprise **twenty-five percent (25%)** or more of the frontage of said block; such greater setback shall become the minimum setback in such block. No building hereafter erected, converted, enlarged, reconstructed, or structurally altered shall project beyond the setback so established in said block, provided, however, that this regulation shall not be interpreted to require a setback of more than **sixty (60) feet**.

(B) **Business (B-2) Exception.** When **two (2)** or more existing business buildings located in this District and within the block of the subject lot, have already established a building line of a lesser depth than required above, then all new buildings may conform to the same building line, except for the **fifty (50) feet** of B-2 District frontage adjacent to a Residential District, whereupon there shall be provided a front setback of not less than **ten (10) feet**.

**40-3-12 INTRUSIONS INTO YARDS.** To the extent indicated below, the following features of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<b>FEATURES</b>	<b>MAXIMUM INTRUSION</b>
Cornices, chimneys, planters or similar architectural features	2 feet
Fire escapes	4 feet
Patios uncovered at ground level	NO LIMIT
Porches, if unenclosed and at ground level	6 feet
Balconies and decks	4 feet
Canopies, roof overhangs	4 feet

**40-3-13 EXCEPTIONS TO HEIGHT LIMITS.**

(A) **Necessary Appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations of the district in which they are located if they comply with all other pertinent ordinances of the City.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by intersecting street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or manmade, shall intrude into the air space that is between **two (2) feet and ten (10) feet** above the level of the adjacent street.

(See Figure 1 at the end of this Code)

**40-3-14 SEWERS, SEPTIC TANKS.** In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the public sanitary sewerage system is reasonably accessible (that is, when the distance from the property in question to the nearest public sewer with available capacity does not exceed **one hundred (100) feet**), all sewage shall be discharged into such system whether or not a private sewerage system already exists or is more convenient.

(B) Whenever the public sanitary sewerage system is not reasonably accessible, a private sewerage system shall be installed and used. All private sewerage systems shall be designed, constructed, operated and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act, 225 ILCS 225/1 through 225/23, as amended from time to time;
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the Illinois Department of Public Health, as amended from time to time;
- (3) Pertinent, current regulations issued by the Illinois Environmental Protection Agency; and
- (4) Applicable codes and regulations of the City, particularly the Subdivision Code.

The Administrator shall not issue any Certificate of Zoning Compliance unless, following consultation with the City Engineer, he is satisfied that these requirements will be met.  
(Also, see Chapter 38 (Section 38-5-13) entitled "Utilities" of Revised Code)

**40-3-15      ACCESSORY USES.**

(A) Any accessory use shall be deemed permitted in a particular zoning district if such use:

- (1) meets the definition of "accessory use" found in Section 40-2-2;
- (2) is accessory to a principal structure or use that is allowed in a particular zoning district as a permitted or special use; and
- (3) is in compliance with restrictions set forth in Section 40-3-16.

(B) If an accessory structure is attached to a principal structure, it shall be considered part of such structure. (See Definition of "Attached" in Section 40-2-2)

(C) Roof overhangs on accessory structures not attached to the principal structure shall not encroach more than two (2) feet into the required setback distance.

**40-3-16      ACCESSORY USE RESTRICTIONS.**

(A) Height. No accessory use shall be higher than twenty-five (25) feet in any Zoning District; provided, there shall be no height limit on accessory structures related to agriculture.

(B) Setbacks. No accessory use in any zoning district shall be located in any part of any yard (front, side or rear) that is required because of the setback regulations of such district; provided that in the Agricultural District or in any Residential District, an accessory use may be located as close as five (5) feet to any side or eight (8) feet to any rear lot line.

(C) Yard Coverage. Accessory uses shall not cover more than thirty percent (30%) of a required rear yard.

(D) Use As Dwelling. Use of any accessory structure as a dwelling is strictly prohibited throughout the City.

**40-3-17      AREA-BULK REGULATIONS.** To facilitate public understanding of this Code, the Area-Bulk Regulation Schedule is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code. The Schedule is found at the end of this Code.

**40-3-18      TEMPORARY USES.** Except as specifically provided otherwise in this Code, no temporary structure shall be used or occupied for any purpose, and no land shall be used for temporary enterprise, whether for profit or not-for-profit, unless a temporary use permit has been obtained. No temporary use permit shall be valid for more than one (1) year unless it is properly renewed. (See Section 40-10-29)

**40-3-19      RESERVED.**

## DIVISION II - PLANNED DEVELOPMENTS

**40-3-20        PLANNED DEVELOPMENT DEFINED.** As used in this Division, the term "planned development" or "PD" means a development wherein, in accordance with an approved development plan:

- (A) common open space is reserved;
- (B) various housing types and other structures and uses may be mixed and/or
- (C) overall average density does not exceed the usual zoning district limit.

**40-3-21        OBJECTIVES.** This Section authorizes development of Planned Developments and establishes procedures in order to achieve the objectives enumerated in **Section 40-1-2** and the following additional objectives:

- (A) to provide a regulatory mechanism whereby the City can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits;
- (B) to permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the natural topography, scenic features, mature trees and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
- (E) to ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

**40-3-22        COMPLIANCE WITH REGULATIONS GENERALLY REQUIRED.** Except as specifically provided otherwise in this Code, planned developments--including all structures and uses therein--shall, at a minimum, be built in conformity with all applicable codes and ordinances, including the Zoning Code and the Subdivision Code.

**40-3-23        DISTRICTS WHERE ALLOWED.** Planned Developments may be built in any Zoning District, but only upon the issuance of a special-use permit by the Zoning Board of Appeals. **(See Section 40-10-26)**

**40-3-24        PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS.** The Planned Development concept is intended to afford both the developer and the City considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, Planned Developments may deviate from generally applicable Code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

(A) **Mixed Uses.** Planned Developments may include all types of residential structures and any other uses approved by the Zoning Board of Appeals, provided that in approving such mixed uses, the Zoning Board of Appeals may attach any conditions necessary to protect the public welfare.

(B) **Lot and Structure Requirements.** In Planned Developments, the Zoning Board of Appeals may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PD are appropriately interrelated and property abutting the PD is adequately protected from any potential adverse impacts of the development. "Lot and structure requirements" mean minimum individual lot area, width and depth; minimum setbacks; and maximum structure height.

(C) **Accessory Uses.** In PDs the Zoning Board of Appeals may allow the developer to disregard the usual restrictions on accessory uses other than the prohibition against using an accessory structure as a dwelling.

(D) **Location of Parking/Loading Spaces.** By permission of the Zoning Board of Appeals, off-street parking and loading spaces in PDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per Article V of this Code.

**40-3-25 PROCEDURES FOR PLANNED DEVELOPMENTS.** Every applicant for Planned Development approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A) Filing development plan with the Zoning Administrator;
- (B) Review of plans by Zoning Board of Appeals;
- (C) Provision by the developer of adequate assurance for the completion of required improvements as per the development plan and subdivision regulations;
- (D) Public hearing by the Zoning Board of Appeals as per the requirements of Article X - Administration;
- (E) Decision of the Zoning Board of Appeals regarding approval/rejection of the development plan;
- (F) Recording of development plan with the County Recorder of Deeds;
- (G) Approval of City Council.

**40-3-26 APPLICATION; INFORMATION REQUIRED.** Every applicant for approval of a development plan shall submit to the Administrator, in narrative and/or graphic form, the items of information listed below:

**40-3-26.1 WRITTEN DOCUMENTS.**

- (A) Legal description of the total site proposed for development;
- (B) Names and addresses of all owners of property within or adjacent to the proposed Planned Development;
- (C) Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
- (D) Development schedule indicating the approximate date when construction of the PD or stages of the PD can be expected to begin and to be completed;
- (E) Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PD, such as land areas, dwelling units, etc.
- (F) Data indicating:
  - (1) total number and type of proposed dwelling units;
  - (2) gross and net acreage of parcel;
  - (3) acreage of gross and usable open space; and
  - (4) area of any commercial uses.

**40-3-26.2 GRAPHIC MATERIALS.**

- (A) Existing site conditions, including contours at **two (2) foot intervals** and locations of watercourses, flood plains, unique natural features, and wooded areas;
- (B) Proposed lot lines and plot designs;
- (C) Proposed location, size in square feet and general appearance of all existing and proposed buildings (both residential and non-residential) and other structures and facilities;

- (D) Location and size in acres or square feet of all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;
- (E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate);
- (F) Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict;
- (G) Existing and proposed utility systems, including sanitary sewers, storm sewers, and water, electric, gas, and telephone lines;
- (H) General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;
- (I) Enough information on land areas adjacent to the proposed PD to indicate the relationship between the proposed development and existing and proposed adjacent areas;
- (J) Any additional information required by the City to evaluate the character and impact of the proposed PD.
- (K) Appropriate seals of the licensed surveyor, engineer, or architect.

**40-3-27        CRITERIA CONSIDERED.** The Zoning Board of Appeals shall compile a written report which either accepts or rejects the Development Plan. In making their decision, the Zoning Board of Appeals shall consider the following criteria:

- (A) The extent to which the proposed development is consistent with the Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances;
- (B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations.
- (C) Whether the proposed design of the PD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth;
- (D) The compatibility of the proposed PD with adjacent properties and surrounding area; and
- (E) Any other reasonable criteria that the Zoning Board of Appeals may devise.

**40-3-28        DECISION BY ZONING BOARD.** The Zoning Board of Appeals shall either approve or disapprove each and every Development Plan. However, the Zoning Board shall not approve any PD unless:

- (A) The developer has posted a performance bond or deposited funds in escrow in the amount the City Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and
- (B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and
- (C) The proposed PD, as evidenced by the Development Plan, complies with all applicable codes, regulations and ordinances. (Deviations to the extent permitted under Section 40-3-27 shall not be deemed as noncomplying.)

**40-3-29        CHANGES IN APPROVED PLANS.** No changes shall be made to any approved PD Development Plan, except as follows:

- (A) Minor changes, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.
- (B) All other changes shall require a public hearing before the Zoning Board of Appeals.

(C) No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Development Plan. (See Article X - Division V)

**40-3-30 FAILURE TO BEGIN DEVELOPMENT.** If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the Development Plan shall lapse upon written notice to the applicant from the Zoning Administrator and shall be of no further effect. However, in his discretion and for good cause, the Zoning Administrator may extend for a reasonable time the period for the beginning of construction. If a final Development Plan lapses as per this section, the following shall be applicable:

- (A) The special-use permit shall be automatically revoked; and
- (B) any zoning permits shall automatically become null and void; and
- (C) all regulations applicable before the PD was approved shall automatically be in full effect.

**40-3-31 MUNICIPAL EXEMPTION.** In conjunction with any existing or proposed development, the City shall be exempt from all of the provisions of this Section.

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## ARTICLE IV - REGULATIONS FOR SPECIFIC DISTRICTS

## DIVISION I - "A" - AGRICULTURAL DISTRICT

**40-4-1        "A" - AGRICULTURAL DISTRICT.** The "A" Agricultural District encompasses areas that are presently undeveloped or sparsely developed and that, for various reasons, should remain so for the foreseeable future. Some tracts of land in this District are fertile and relatively level and best suited for agricultural pursuits. Other tracts in this District have such poor soils, steep slopes, inadequate natural drainage, and/or other problems, or are simply so distant from existing developed areas that the provision and maintenance of roads, utilities, and storm water drainage systems would be impractical or burdensomely expensive to the tax-paying public.

**40-4-2        ONE DWELLING ON ONE LOT.** In the "A" District, only one (1) dwelling shall be situated on any one (1) lot.

**40-4-3        LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "A" District shall conform to the following requirements:

(A)	Minimum Lot Area:	3 Acres
(B)	Minimum Lot Width at the established building line:	150 feet
(C)	Minimum Lot Depth:	200 feet
(D)	Minimum Setbacks:	
	(1)      From front lot line:	40 feet
	(2)      Total for both side yard lines:	25 feet
	(3)      From either side lot line:	10 feet
	(4)      From rear lot line:	25 feet
	(5)      From side yard abutting street:	40 feet
(E)	Maximum Building Height:	35 feet

(Does not apply to accessory agricultural structures.)

**40-4-4        PERMITTED USES.** The following uses shall be permitted in the "A" - Agricultural District:

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-2** are met.

Cemeteries.

Nurseries, greenhouses, temporary produce stands.

Single-family dwellings, conventionally constructed.

Accessory uses in accordance with **Section 40-3-15.**

Modular homes and pre-fabricated homes.

An underground coal mine facility, together with (a) related aboveground mining facilities, equipment, shafts, and portals, (b) related coal transportation, handling, and storage facilities and systems; and, (c) coal washing, crushing, disposal, and screening facilities and systems; provided, however, that prior to the operation of such facilities the Illinois Department of Natural Resources, Offices of Mines and Minerals shall have duly issued to the permittee all necessary permits required by it for the operation of a coal mine. (**Ord. No. 1505; 10-13-09**)

**40-4-5        SPECIAL USES.** The following uses may be allowed by special-use permit in accordance with **Section 40-10-24**, et seq. of this Code in the "A" - Agricultural District:

Agricultural implement sales.

Amusement facilities, such as go-cart tracks, miniature golf courses, etc.

Animal hospitals.  
Cell towers.  
Churches and other places of formal worship.  
Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.  
Commercial Solar Energy Facilities, subject to the regulations set forth in **Section 40-5-31 to 40-5-41**.  
Golf courses, regulation size.  
Home occupations.  
Institutions, such as convents, retreat houses, seminaries, etc.  
Kennels, commercial.  
Manufactured homes. (**See Section 40-2-2**)  
Nursing homes, sanitariums.  
Storage containers.  
Utility substations.

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Bed and breakfast establishments, and short-term rentals.  
 Churches and other places of worship.  
 Community residences, small.  
 Day care.  
 Educational institutions, schools.  
 Home occupations, but only in conformity with the requirements of **Section 40-5-4**.  
 Utility substations.

**40-4-12      ACCESSORY USES PROHIBITED.** It shall be unlawful to locate an accessory use in this district known as a "storage container" as described in **Section 40-2-2**. (See **Section 40-5-15**)

**40-4-13 - 40-4-20      RESERVED.**

### **DIVISION III – "R-2" RESIDENTIAL DISTRICT**

**40-4-21      "R-2" - GENERAL RESIDENCE DISTRICT.** The "R-2", General Residence District encompasses areas suitable for both single-family dwellings and multi-family dwellings as well as related educational, religious and recreational facilities.

**40-4-22      LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "R-2" District shall conform to the following requirements:

(A)	Minimum Lot Area:			
	(1) Single-family detached dwellings:	6,000	sq. ft.	
(B)	Minimum Lot Width at the established building line:	50	feet	
(C)	Minimum Lot Depth:	100	feet	
(D)	Minimum Setbacks:			
	(1) From front lot line:	20	feet	
	(2) From either side lot line:	5	feet	
	(3) From rear lot line:	8	feet	
	(4) From side yard abutting street:	20	feet	
(E)	Maximum Building Height:	35	feet	
(F)	Minimum Off-street Parking Per Multi-Family Dwelling Unit:	3	spaces	
(G)	Every multi-family dwelling erected shall have a total floor area of not less than <b>seven hundred twenty (720) square feet</b> per unit. Every single-family dwelling shall have a total floor area of not less than <b>eight hundred fifty (850) square feet</b> .			

than **seven hundred twenty (720) square feet** per unit. Every single-family dwelling shall have a total floor area of not less than **eight hundred fifty (850) square feet**.

**40-4-23      PERMITTED USES.** The following uses shall be permitted in the "R-2" -General Residential District:

Any use permitted in the "R-1" District. (**Section 40-4-10**)  
 Bed and breakfast.  
 Churches and related religious facilities.  
 Educational institutions, schools.  
 Utility substations.  
 Modular homes and pre-fabricated homes.

**40-4-24      SPECIAL USES.** The following uses may be allowed in the "R-2" District by special-use permit in accordance with **Section 40-10-24**:

Auditorium, stadium, arena, armory or gymnasium.

Group homes.

Home occupations, but only in conformity with the requirements of **Section 40-7-4**.

Hospitals or sanitariums.

Multi-family dwellings.

Nursery schools.

Nursing homes.

Professional offices.

**40-4-25      ACCESSORY USES PROHIBITED.** It shall be unlawful to locate an accessory use in this district known as a "storage container" as described in **Section 40-2-2**. (See **Section 40-5-15**)

**40-4-26 - 40-4-39      RESERVED.**

#### **DIVISION IV - MULTIPLE-FAMILY DISTRICTS (MR-1)**

**40-4-40      "MR-1" - MULTIPLE-FAMILY RESIDENCE DISTRICT.** The "MR-1", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

**40-4-41      LOT AND BUILDING REQUIREMENTS.** Every principal building in the "MR-1" District shall conform to the requirements indicated below:

**NOTE:** Detached single-family and two-family dwellings erected in the "MR-1" District shall comply with all applicable regulations of the "MR-1" District.

(A)	Minimum Lot Area	10,000 sq. ft. 2,500 sq. ft. per unit, whichever is greater.
(B)	Minimum Lot Width at the established building line	80 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
(1)	From front lot line	25 feet
(2)	For both side yard lines	15 feet
(3)	From either side lot line	7.5 feet
(4)	From rear lot line	25 feet
(5)	From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit	3 spaces
(G)	Maximum Percent Coverage Per Lot	30%

**40-4-42      PERMITTED USES.** The following uses shall be permitted in the "MR-1" - Multiple-Family Residential District:

Any use permitted in the "R-2" District. (**Section 40-4-23**)

Community residences. (See **Section 40-2-2**)

Duplexes.

Multiple-family dwellings.

**40-4-43      SPECIAL USES.** The following uses may be allowed in the “MR-1” District by special-use permit in accordance with **Section 40-10-24:**

Convenience shops (e.g., small drugstore, food store, laundromat).  
 Day care center.  
 Home occupations. (See Section 40-5-4)  
 Utility substations. (See Section 40-5-10)

**40-4-44      ACCESSORY USES PROHIBITED.** It shall be unlawful to locate an accessory use in this district known as a “storage container” as described in **Section 40-2-2** and **40-5-15.**

**40-4-45 - 40-4-50      RESERVED.**

#### **DIVISION V – MANUFACTURED HOUSING DISTRICT (MH-1)**

**40-4-51      “MH-1” – MANUFACTURED HOUSING DISTRICT.** The “MH-1”, Manufactured Housing District is primarily intended to provide areas suitable for the placement of immobilized manufactured homes on individual lots, for the establishment of manufactured home parks, and for the placement of modular or manufactured homes on individual lots. This district is intended to preserve other residential districts for site constructed dwellings.

**40-4-52      LOT OWNERSHIP.** All manufactured housing units located outside an approved manufactured home park shall be located on property owned by the owner of the manufactured housing unit.

All units shall meet the Housing and Urban Development Federal Code known as the “National Manufactured Home Construction and Safety Standards” or the State of Illinois standards for modular homes and Chapter 23.

**40-4-53      LOT AND BUILDING REQUIREMENTS, GENERALLY.**

**NOTE:** Special lot and building requirements are applicable to manufactured home parks. (See Section 40-5-12)

(A)	Minimum Lot Area	10,000 sq. ft.
(B)	Minimum Lot Width at the established building line	75 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
(1)	From front lot line	25 feet
(2)	For both side yard lines	15 feet
(3)	From either side lot line	7.5 feet
(4)	From rear lot line	20 feet
(5)	From side yard abutting street	25 feet
(E)	Maximum Building Height	35 feet
(F)	Maximum Percent Coverage Per Lot	25%
(G)	Minimum Off-Street Parking Per Unit	2 spaces

**40-4-54      PERMITTED USES.** The following uses shall be permitted in the “MH-1” – Manufactured Housing District:

Any use permitted in the “MR-1” District. (Section 40-4-52)

Manufactured homes on individual lots, provided said units conform to all applicable requirements of the City Code. (See Chapter 23)

**Modular homes. (See Section 40-2-2)**

**40-4-55      SPECIAL USES.** The following special uses may be permitted in the "MH-1" District by special-use permit in accordance with Section 40-10-24, et seq.

Any special-use allowed in the "MR-1" District. (See Section 40-4-43)  
Manufactured home parks in conformity with all applicable requirements of this Code and Chapter 23.

**40-4-56 - 40-4-70      RESERVED.**

## DIVISION VI - GENERAL BUSINESS DISTRICTS

**40-4-71      "B-I" - GENERAL BUSINESS (DOWNTOWN).** The "B-I", General Business District primarily encompasses the long-established commercial areas of the City where a wide range of goods and services is offered to the general public at retail or wholesale. Portable or mobile (manufactured) structures may not be used for business purposes in this District.

**40-4-72      USE RESTRICTIONS.**

- (A) **Enclosed Buildings.** All commercial, service and storage activities shall be conducted within completely enclosed structures.
- (B) **Limited Size.** The gross floor area of any commercial or service establishment located in this district shall not exceed **three thousand (3,000) square feet.**
- (C) **Access Ways.** Any access way (driveway) to any off-street parking lot or loading berth shall be located at least **ten (10) feet** from any lot line.
- (D) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly covered containers placed in visually screened areas.
- (E) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence, or closely planted shrubbery) at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property shall be provided.

**40-4-73      LOT AND BUILDING REQUIREMENTS.**

- (A) Minimum Lot Area: 6,000 square feet
- (B) Minimum Lot Depth: 100 feet
- (C) Minimum Depth of side yard abutting street: 25 feet
- (D) Minimum Setbacks: Generally, none required except as necessary to comply with applicable off-street parking and loading requirements. However, any lot that abuts any residential district shall meet the front setback and side setback (on the side abutting the residential use) requirements of such residential district. (See Section 40-3-8)
- (E) Maximum Building Height: 45 feet

**40-4-74      PERMITTED USES.** The following uses shall be permitted in the "B-1" - General Business District:

All uses permitted in the "R-2" General Residence District. (See Section 40-4-23).

Clubs and lodges.

Commercial establishments, wholesale and retail except those listed under Section 40-4-43.

Hotels, motels.

Medical/Dental clinics.

Offices.

Restaurant or cafe.

Service establishments.

Specialty shops: gift shops, magazines, books, florist, etc.

Theatres.

Accessory uses in accordance with **Section 40-3-15**.

**40-4-75      SPECIAL USES.** The following may be permitted as special uses in the "B-1" District in accordance with **Section 40-10-24**, to-wit:

Any use, such as drive-in restaurants, drive-in banks, service stations, etc., that offers goods or services directly to customers waiting in parked vehicles, or that sells food or beverages for consumption on the premises in parked motor vehicles.

Amusements centers.

Bus terminals.

Funeral homes.

Greenhouses.

Hospitals.

Liquor stores.

Nursing homes.

Railroad right-of-way.

Sports bars.

Taverns.

**40-4-76      ACCESSORY USES PROHIBITED.** It shall be unlawful to locate an accessory use in this district known as a "storage container" as described in **Section 40-2-2**. (See **Section 40-5-15**)

**40-4-77 - 40-4-80      RESERVED.**

## DIVISION VII - HIGHWAY BUSINESS

**40-4-81      "B-2" - HIGHWAY BUSINESS DISTRICT.** The "B-2", Highway Business District is intended to accommodate and regulate strip commercial developments and compatible uses. Since such businesses, both retail and wholesale, draw their patrons primarily from the motoring public, they typically require direct access to major streets and large lots for off-street parking and loading. Portable or mobile (manufactured) structures may not be used for business purposes in this District.

**40-4-82      USE RESTRICTIONS.**

(A)      **Refuse Containers.** All refuse generated by facilities located within this District shall be stored in tightly covered containers placed in visually-screened areas.

(B)      **Screening.** Along the side and rear lot lines of any lot abutting any residential district, screening at least six (6) feet high, which completely blocks the view from the adjacent residential property shall be installed. The screening shall be approved by the Zoning Administrator.

(C)      **Parking.** See Article VII.

(D)      **Signs.** See Article VI.

**40-4-83      LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "B-2" Highway Business District shall conform to the requirements indicated below:

(A)	Minimum Setbacks:	
(1)	From front lot line:*	20 feet
(2)	Side Yards:	
	(a) Minimum total setback from abutting street:	15 feet
	(b) Minimum setback from either side lot line:	10 feet
	(3) From rear lot line:	10 feet
(B)	Maximum Structure Height:	35 feet
(C)	Minimum Lot Size	10,000 square feet

(\*See Section 40-3-11)

**40-4-84 PERMITTED USES.** Provided all the use restrictions of the "B-2" District are observed, the following uses are permitted: (See Section 40-4-82)

Any use permitted in the "B-1" District, except residential uses. (See Section 40-4-42)  
Commercial establishments, any type, including drive-in facilities.

Such uses as the following are especially appropriate in this District:

- bowling alleys
- furniture and appliance sales
- greenhouses
- lumber and building supplies sales
- motor vehicles sales
- recreational vehicles sales

Grocery stores or supermarkets.

Offices.

Nursing homes.

Service establishments, any type, including drive-in facilities.

Such uses as the following are especially appropriate in this District:

- animal hospitals
- banks and other financial institutions
- motels
- motor vehicles services
- restaurants
- service stations

Accessory uses in accordance with Section 40-3-15.

**40-4-85 SPECIAL USES.** Provided all the use restrictions of the "B-2" District are observed, the following uses may be allowed by special-use permit. (See Section 40-4-82)

Bus terminals and bus transportation facilities.

Drive-in theaters.

Liquor stores.

Research and development facilities not involving explosives, flammable gases or liquids, or live animals.

Residential uses permitted in "R-2" District. (See Section 40-4-24).

Taverns.

Warehousing and wholesaling of any goods except explosives, flammable gases, or live animals.

**40-4-86 ACCESSORY USES PROHIBITED.** It shall be unlawful to locate an accessory use in this district known as a "storage container" as described in Section 40-2-2. (See Section 40-5-15)

## DIVISION VIII - INDUSTRIAL DISTRICT

**40-4-88        "I-1" - INDUSTRIAL DISTRICT.** The "I-1", Industrial District is intended to provide for areas where industry, research facilities, warehouses, and wholesale businesses may locate without detriment to the remainder of the community. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

**40-4-89        USE RESTRICTION.**

(A)        **Nuisances Prohibited.** No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, emission of toxic gases, excessive glare, and noxious odors.

(B)        **Activities Enclosed.** All production, processing, cleaning, servicing, testing or repair activities shall be conducted within completely enclosed buildings. Storage areas may be open to the sky, but shall be enclosed by walls or fences (whether solid or chain-link), including gates, at least six (6) feet high.

(C)        **Buffer Strips.** Wherever any industrial use located in this District abuts any residential district, a twenty (20) foot wide view and noise control buffer strip shall be installed. Such buffer strip shall consist of densely planted shrubbery that is at least five (5) feet high when planted and that can be expected to reach a height of ten (10) feet when full grown.

**40-4-90        LOT AND STRUCTURE REQUIREMENTS.**

(A)	Minimum Lot Area:	20,000    square feet
(B)	Minimum Lot Width at the established building line:	125    feet
(C)	Minimum Lot Depth:	150    feet
(D)	Minimum Setbacks:	
	(1)    From front lot line:	25    feet
	(2)    From any side lot line:	25    feet
	(3)    From rear lot line:	25    feet
(E)	Maximum Structure Height:	60    feet

**40-4-91        PERMITTED USES.** Provided all the use restrictions of the "I-1" District are observed, the following uses are permitted: (See Section 40-4-53)

Assembly, manufacturing or processing of any commodity from semi-finished materials, provided explosives, flammable gases or liquids or live animals are not involved.

Commercial Solar Energy Facilities/Commercial Solar Energy Systems.

Freight and bus terminals and related mass transportation facilities.

Research and development facilities not involving explosives, or flammable gases or liquids.

Service stations.

Warehousing or wholesaling of goods, except explosives, flammable gases or liquids, or live animals.

Utility substations or government uses.

Accessory uses in accordance with Section 40-3-15.

**40-4-92        SPECIAL USES.** The following uses may be permitted as special-uses in the "I-1" District by special-use permit in accordance with Section 40-10-24, to-wit:

Any permitted use in the "B-1" or "B-2" Districts. (See Sections 40-4-75 and 40-4-85)  
Asphalt manufacturing.

Bulk-fertilizer sales.  
 Commercial extraction (quarry) of gravel, sand, stone, etc.  
 Incinerator or rendering works.  
 Manufactured Structures - for non-residential use.  
 Planned Development.  
 Radio and television station.  
 Rubber.  
 Slaughterhouse.  
 Storage containers.  
 Sulphuric, nitric, etc. manufacturing.

40-4-93 - 40-4-95 **RESERVED.**

## DIVISION IX – FLOOD PLAIN DISTRICT

**40-4-96        “O-FP” – FLOOD PLAIN OVERLAY DISTRICT.** The “O-FP”, Flood Plain Overlay District delineates areas in the vicinity of watercourses and tributaries in the City subject to special requirements.

In the absence of flood protection measures, these areas are subject to periodic flooding which may result in injury to or loss of life and property, disruption of private and governmental services, impairment of the municipal tax base, and the need for extraordinary relief measures. The regulations of this Section are intended to restrict permitted development in flood plains to:

- (A)        Uses which inherently have low flood damage potential and
- (B)        to other uses allowed in the primary zoning districts provided appropriate protective measures have been taken.

**40-4-97        PERMITTED AND/OR SPECIAL USES.** This overlay district has no effect on the classification, whether permitted, special, or prohibited, of uses in the primary zoning districts. Rather, this overlay district imposes additional restrictions on both permitted and special uses.

**40-4-98        ADDITIONAL RESTRICTIONS.** All uses, whether permitted or special, that are located in the area covered by the “O-FP”, **Overlay District** shall not only meet all the applicable requirements of the primary district, but shall also be adequately protected against flood damage. To ensure such protection, the Administrator, following consultation with technically-qualified persons, may require as necessary:

- (A)        Anchorage or addition of weight to structures to resist flotation;
- (B)        installation of watertight doors and bulkheads;
- (C)        use of special paints, membranes, mortars so as to reduce seepage through walls.
- (D)        installation of pumps to lower water levels in structures or to relieve external foundation wall flood pressure;
- (E)        reinforcement of walls to resist rupture or collapse caused by water pressure or floating debris;
- (F)        installation of valves or controls on sanitary and storm drains so that the drains can be closed to prevent backup of sewage or storm runoff into structures;
- (G)        location of electrical equipment and appliances above the level of the regulatory flood elevation;
- (H)        location of storage facilities for chemicals, explosives, flammable liquids, toxic substances, etc., above the regulatory flood elevation;
- (I)        filling and earth-moving to raise the level of proposed building site above the regulatory flood elevation; and/or
- (J)        any other reasonable flood protection measures.

In no case shall the Zoning Administrator approve any proposed flood protection measure which would result in an increase in the volume or velocity of floodwater leaving the lot in question.

40-4-99 - 40-4-104 **RESERVED.**

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## ARTICLE V - ADDITIONAL SUPPLEMENTARY REGULATIONS

## DIVISION I - GENERALLY

**40-5-1        APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements and design/operational standards for specific, potentially troublesome structures and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special-use permit; but if more stringent regulations are applicable in any particular district, such regulations shall prevail.

**40-5-2        AGRICULTURAL ACTIVITIES.**

(A)        **Farm Animals.** No barn, stable, shed, or other structure intended to shelter farm animals shall be erected closer than **three hundred (300) feet** to any existing dwelling, or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. Similarly, fences shall be erected, or other means shall be taken to prevent farm animals from approaching closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line or residential property, whichever distance is greater.

(B)        **Farm Equipment/Commodities.** No agricultural equipment or commodities (including, but not limited to, baled crops, fertilizer, pesticides/herbicides) shall be stored outdoors closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. If said equipment/commodities are stored within a completely enclosed structure, said structure shall be located at least **one hundred (100) feet** from any lot line of residential property.

(C)        **Barbed Wire/Electrical Fences.** [See Section 40-5-3(B).]

**40-5-3        FENCES, WALLS AND OBSTRUCTIONS.** All fences, walls, and obstructions shall be subject to the terms, conditions and criteria contained in this Section.

(A)        No fence or wall may be installed or constructed without first obtaining a building permit. Each application shall be accompanied by the appropriate permit fee.

(B)        No barbed wire fence or electrically-charged fence or razor-wire fence shall be erected anywhere in the City, except, however:

- (1)        Barbed wire and razor-wire fence is permitted in the I-1 Industrial District, in the B-1 Business District, or in the B-2 Business District at heights of not less than **six (6) feet six (6) inches** after being placed at or above the top of other fencing, none of which may be within **five (5) feet** of any public street, alley, or sidewalk, and if otherwise in compliance with this Code, as well as in the A-1 Agricultural District when used to fence in livestock; and
- (2)        Electrically charged fences are permitted in the A-1 Agricultural District when used to fence in livestock.

(C)        No fence, wall, or other obstruction may be erected in any public right-of-way without proper prior approval from the City Council.

(D)        No fence, wall, or other obstruction shall be erected in violation of the **Illinois Drainage Code.**

(E)        Any fence, wall, or other obstruction shall conform to the requirements of **Section 40-3-13(B).**

(F)        Fences may be constructed of wood (except deconstructed pallets), vinyl, or composite material; wrought iron; and chain-link. Construction fencing, scrap lumber, wood pallets, metal panels, hog wire, rope, plywood or fiberglass panels, fabric, galvanized sheet metal, damaged or unsafe materials, or other materials that are not manufactured specifically as fencing materials are prohibited.

(G)        For purposes of this paragraph, "landscape fences" shall mean non-obstructive fences intended for decorative purposes only and not intended in any way to be used

as an enclosure, barrier, or means of protection or confinement. Landscape fences, made of pickets, split rails, or wrought iron, are allowed up to **four (4) feet** in height. Privacy fences, chain link fences, and welded wire fences shall not be considered or deemed to be landscape fences.

(H)

The following standards shall apply to temporary fencing.

- (1) The use of wood or plastic for the purpose of temporary protection of excavation and construction sites, and the temporary protection of plants during grading and construction, is permitted for up to **ninety (90) consecutive days**.
- (2) Chicken wire may be used while gardening or raising chickens, if such activities are otherwise conducted in accordance with City Ordinances.
- (3) Snow fences for exclusive control of snow between **November 1<sup>st</sup>** and **March 31<sup>st</sup>** are permitted.
- (4) Temporary fencing for special events shall be permitted as approved by the City Code Enforcement Officer or as may be required by the Mayor or the Commissioner of Public Health and Safety.

(J) Fence posts and supports must not be installed so as to be facing outward toward neighboring property. The flat portion of the fencing materials must face outward toward the neighboring property.

(K) Existing fences that were constructed prior to the adoption of this Section that were constructed with materials not currently permitted by this Section may be maintained so long as no part of the fence is or becomes unsafe, dilapidated, or a public nuisance, in which case the fence must then either be repaired with materials in conformity with this Section and any other Ordinances of the City, or be removed.

(L) All fences, walls, or hedges shall have a setback of **two (2) feet** from the property line. All applicants shall determine where the property lines are located prior to installation, construction, planting, or placement.

(M)

In all Residential Districts:

- (1) No fence, hedge, or wall over **four (4) feet** in height shall be permitted within any required front setback.
- (2) No fence, hedge, or wall greater than **six (6) feet** in height shall be allowed within any required rear setback or side setback.

(N) Fences and walls located in the I-1 Industrial District, in the B-1 Business District, or in the B-2 Business District shall not exceed a height of **eight (8) feet**, measured from its top edge to the ground at any point.

(O) Notwithstanding any provision of this Section to the contrary, fences up to **ten (10) feet** in height are permitted to enclose tennis courts, provided that all other requirements of this Zoning Code are met and the tennis court is otherwise permitted, either as an accessory use or pursuant to a special use permit. Such fences, if they exceed **six (6) feet** in height, must be constructed to have **fifty percent (50%)** or less of solid material.

(P) An outdoor swimming pool or hot tub with the capacity to hold over **two (2) feet** in depth of water shall be provided with a barrier that shall be installed, inspected, and approved prior to use and/or the filling with water. A self-contained spa, hot tub or pool equipped with a safety cover, or a pool less than **two (2) feet** deep, shall be exempt from this paragraph. The barrier shall comply with the following:

- (1) The top of the barrier shall be **six (6) feet** above grade on all sides. The maximum vertical clearance between the grade and the bottom of the barrier shall be **two (2) inches**. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations, or cutouts, which render the barrier easily climbable, is prohibited.
- (2) Openings in the barrier shall not allow passage of a sphere **four (4) inches** in diameter.
- (3) Chain link fence used as a barrier shall not be less than 11 gauge.

- (4) Access gates shall comply with the requirements of the preceding paragraphs (1) through (3). Pedestrian access gates shall be self-closing and have a self-latching device. Where the release mechanism of the self-latching device is located less than **fifty-four (54) inches** from the bottom of the gate, the release mechanism shall be located on the pool side of the barrier at least **three (3) inches** below the top of the gate, and (2) the gate and barrier shall have no opening greater than **one-half (1/2) inch** within **eighteen (18) inches** of the release mechanism. Pedestrian gates shall swing away from the pool. Any gates other than the pedestrian access gates shall be equipped with lockable hardware or padlocks and shall remain locked at all times when not in use.
- (5) Where an above ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps, then (a) the ladder or steps shall be capable of being secured, locked or removed to prevent access or (b) the ladder or steps shall be surrounded by a barrier that meets the requirements of the preceding paragraphs 1 through 4. When the ladder or steps are secured, locked, or removed, any opening created shall be protected by a barrier complying with the preceding paragraphs 1 through 4.

(Q) The following conditions and standards shall apply to dog fencing:

- (1) Dog runs shall be a maximum of **three hundred (300) square feet** and shall not exceed **eight (8) feet** in height. Dog runs do not require a permit. Enclosures larger than **three hundred (300) square feet** shall be considered a fence and shall require a permit.
- (2) Dog runs shall be permitted in the rear yard only.
- (3) Coverings over a dog run shall be a maximum of **one hundred (100) square feet** in surface area.

(Ord. No. 1751; 02-21-23)

#### 40-5-4

#### **HOME OCCUPATIONS.**

(A) **Limitations on Use.** A home occupation shall be considered a special use in any residence district, provided the home occupation is subject to the following limitations.

- (1) The use shall be conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants living there, and no others.
- (2) The use shall be clearly incidental and secondary to the use of the dwelling and dwelling purposes and shall not change the character of use as a dwelling.
- (3) The total area used for the home occupation shall not exceed **one-half (1/2) the floor area of the user's living unit.**
- (4) There shall be no exterior advertising other than identification of the home occupation by a sign which shall be attached to the dwelling or the accessory building and shall not exceed **two (2) square feet** in area and which shall not be illuminated.
- (5) There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.
- (6) There shall be no offensive noise, nor shall there be vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
- (7) There shall be no storage or use of toxic, explosive or other dangerous or hazardous materials upon the premises.
- (8) A home occupation, including studios or rooms for instruction, shall provide off-street parking area adequate to accommodate needs created by the home occupation.

(9) The use must be in conformance with all valid covenants and agreements recorded with the Registrar of Deeds for the County, covering the land underlying the dwelling.

(10) A home occupation permit may be issued for any use allowed by the Zoning Code, providing all other criteria for issuance of a home occupation permit are met. No home occupation permit shall be issued for any other use.

(B) **Permit Required.** A home occupation shall not be permitted without a special-use permit being granted by the Zoning Board of Appeals, which shall determine whether or not the proposed home occupation complies with all applicable laws and ordinances.

(1) The applicant for a home occupation permit shall be responsible for providing a list of surrounding landowners and tenants. (See Section 40-10-26)

(2) A hearing upon the application shall be held in accordance with the rules and regulations of the Zoning Board of Appeals.

(C) **Activities Not Covered.** No home occupation permit shall be required for activities such as telecommuting, involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home. As used in this Section, "telecommuting" means working in the home by using a computer terminal.

#### 40-5-5 **JUNK YARDS.**

(A) No part of any junk yard, which includes any lot which **three (3)** or more inoperable vehicles are stored, shall be located closer than **five hundred (500) feet** to the boundary of any residential district.

(B) All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **ten (10) feet** high and of sufficient density to block the view from adjacent property.

(See Chapter 7; Article IV of City Code and definition of "Junk Yard", Section 40-2-2)

#### 40-5-6 **NURSING HOMES.**

(A) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **two (2) acres**.

(B) The principal building of any nursing home shall be located at least **twenty-five (25) feet** from all lot lines.

40-5-7 **RECREATIONAL VEHICLES.** The regulations of this Section do not apply to travel trailers or other recreational vehicles parked in a permitted travel trailer park that conforms to the pertinent requirements of the **Manufactured Housing Code**. The requirements of paragraphs (A), (C) and (D) do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicles sales lot.

(A) Not more than **two (2) travel trailers** or recreational vehicles shall be parked on any lot. They shall not be parked on a street.

(B) No travel trailer or other recreational vehicle shall be used as a dwelling.

(C) No travel trailer or other recreational vehicle shall be used as an office or for any other commercial purpose.

(D) Travel trailers or recreational vehicles shall be required to have setbacks as required for accessory buildings.

(E) No travel trailer or other recreational vehicle shall be parked on any front yard.

(F) No unlicensed manufactured home may be located in a travel trailer or recreational vehicle park.

(G) No travel trailer shall be parked in a required front yard.

(H) No trailer or other type recreational vehicle shall be parked on a public street or alley for more than a **seventy-two (72) hour** period.

**40-5-8            SERVICE STATIONS.**

- (A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.
- (B) Every access way shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park or playground, and at least **thirty (30) feet** from any intersection of public streets.
- (C) Every device for dispensing or selling milk, ice, soft drinks, snacks, and similar products shall be located within or adjacent to the principal building.
- (D) All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.
- (E) Whenever the use of a service station has been discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year period**, the Administrator shall order that all underground storage tanks be removed or filled with material approved by the Fire Chief.
- (F) A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.

**40-5-9            SWIMMING POOLS.**

- (A) No private swimming pool shall be located in any front yard nor closer in distance to any side or rear lot line than those set back distances established by the accessory use restrictions of **Section 40-3-16** (as that provision is or may be amended). (Ord. No. 1294; 02-08-00)
  - (B) Every swimming pool that is more than **two (2) feet** deep shall be enclosed by a wall or fence being flush to the ground and at least **six (6) feet** in height, with the passage through such wall or fence being equipped with a gate or door secured with a locking device.
    - (1) In the event that the location of the pool is such that a fence is impossible to install or not feasible by reason of topography or other good reason, a locking pool cover may be installed in place of said fence or wall.
    - (2) A fence securely attached to the top edge of the pool itself and extending to a total height of **six (6) feet** from the ground, with the required locking door or gate for ingress/egress as set forth above, shall be acceptable.
  - (C) All lights used to illuminate any swimming pool shall be arranged or shielded so as to confine direct light rays within the lot lines to the greatest extent possible.

(Ord. No. 1611; 03-24-15) (See Section 40-5-3(P))

**40-5-10            UTILITY SUBSTATIONS.** Every electrical substation\*, gas regulator station, telephone exchange facility, private sewage treatment plant, private water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

- (A) Every lot on which any such facility is situated shall meet the minimum area and dimensions requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.
- (B) In any residential district, every such facility shall be designed, constructed, and operated so that it is compatible with the residential character of the area.
- (C) Screening at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property shall be installed around every such facility. Furthermore, if the

Administrator determines that the facility poses a safety hazard (for example, if there are transformers exposed), he shall require that a secure fence at least **ten (10) feet** in height be installed behind the planting screen.

\*This term does not include a single residential transformer.

**40-5-11      LIGHTING CONTROLS.** Any light used for the illumination of signs, parking areas, swimming pools, or for any other purpose shall be arranged in such a manner as to direct the light away from neighboring residential properties and away from the vision of passing motorists.

**40-5-12      MANUFACTURED HOMES.** The following requirements are supplementary to the Illinois Manufactured Home Parks laws as contained in the **210 ILCS 115/1 through 115/27**, and the Rules and Regulations adopted by the Illinois Department of Public Health pursuant thereto.

(A)      **Manufactured Homes - Individual.**

- (1)      It shall be unlawful for any person to maintain any manufactured home, trailer, used for human habitation upon any parcel of land in the City or within its jurisdictional limits, except in a licensed manufactured home park.
- (2)      Manufactured homes shall be utilized only as a dwelling unit for owner or renter occupancy.
- (3)      No manufactured home shall be brought into or placed anywhere on individual lots within the City.
- (4)      All existing manufactured homes shall be skirted and anchored.
  - (a)      Specifically, skirted with fire resistant material. Skirting shall be equipped with an inspection door at least **twenty-four (24) inches** wide to allow access to the underside of the home; and
  - (b)      Anchors capable of withstanding a vertical tension force of **four thousand eight hundred (4,800) pounds** shall be installed at the corners of every manufactured home stand or as otherwise necessary for protection against high winds. The anchors shall be firmly attached to straps which extend over the manufactured home at each end. The straps shall consist of material capable of stabilizing the dwelling during high winds. Straps shall be firmly attached to the manufactured home. Every manufactured home shall be securely tied down to anchors.
- (5)      All manufactured homes shall be connected to all available public utilities in accordance with all requirements for any residential structures in the City, shall be appropriately skirted, and shall conform to all requirements that are applicable to conventionally constructed dwelling units in the "R" District.
- (6)      Any existing manufactured home situated within the City or within its jurisdictional limits but not in a manufactured home park on or before **September 10, 1991**, shall, if in conformity with all sewer, water, sanitation and health codes of the City be permitted to remain at its present location, but may not be replaced by another manufactured home unit or removed to another location except in conformity with the provisions of this Code. (Ord. No. 1125; 9-10-91)
  - (a)      Except as otherwise provided herein, it shall be unlawful to occupy for sleeping or other residential purposes, any manufactured home, mobile home, or trailer not located in a manufactured home park, and any such unit unoccupied

for a period of **six (6) months** shall be removed from its location. (Ord. No. 1125; 09-10-91)

(b) It shall be unlawful, within the limits of the City, for any person to park any manufactured home, mobile home, or trailer on any street or other public place or on any tract of land owned by any person, occupied or unoccupied, within the City except as provided in this Code. (Ord. No. 1125; 09-10-91)

(B) **Manufactured Home Parks and Courts.**

- (1) After **April 1, 1993**, no manufactured home park and/or court shall be operated within this City without having first obtained a permit to operate from the Illinois Department of Public Health.
- (2) Manufactured home parks and/or courts shall be permitted by a special use permit only and shall meet the following requirements:
  - (a) shall be located on a tract of land not less than **two (2) acres**.
  - (b) shall contain at least **three (3) manufactured homes**.
  - (c) **Minimum Lot Size and Setback Requirements.** Individual manufactured home spaces shall be considered as lots and shall meet the following requirements:
 

1. Minimum lot size:	8,000 sq. ft.
2. Minimum lot depth:	120 feet
3. Minimum lot width:	65 feet
4. Minimum setback requirements from	
a. front lot line	20 feet
b. rear lot line	20 feet
c. side lot line	8 feet on one side, 20 feet on the other side.
5. Minimum distance to a building on an adjacent lot:	16 feet
- (d) Shall be skirted and anchored as per **Section 40-5-12(A)(4)(a and b)**.
- (e) **Two (2) off-street parking spaces** shall be provided per manufactured home.
- (f) No access way may dead-end except as a cul-de-sac with appropriate turn-around space for emergency vehicles.

**40-5-13 PUBLIC BUILDINGS.** In any district where municipality-owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

- (A) In any residential or agricultural district, all municipal or other publicly-owned buildings shall be located at least **twenty-five (25) feet** from all property lines.
- (B) In any residential, agricultural or business district, there shall be no permanent storage of heavy construction or maintenance equipment (such as excavating, road building, or hauling equipment), unless in an enclosed building or enclosed within a solid wall or fence at least **six (6) feet** in height. Such storage areas, maintenance yards, or storage warehouses shall be located at least **twenty-five (25) feet** from any front or side property line.

**40-5-14 PARABOLIC OR DISH-TYPE ANTENNAS: REQUIREMENT.** Parabolic or dish-type antennas located outside of the business or residence shall meet the following requirements:

- (A) Maximum number per business lot or residence lot shall be **one (1) antenna**. Businesses selling these dishes shall be allowed a maximum of **three (3)** and only **one (1)** of these shall be allowed in front of the building.

(B) The parabolic or dish-type antenna shall be located in the rear yard, except that when the main building is on a corner lot, the parabolic or dish-type antenna cannot be closer to the adjoining side street than the main building is permitted to be located.

(C) The parabolic or dish-type antenna shall be placed in the rear yard, except that if a usable satellite signal cannot be obtained from the rear yard, the antenna may be located on the side yard of the property, subject to the approval of the Zoning Administrator and subject to the other requirements of this Section.

In the event that a usable satellite signal cannot be obtained from the rear or side yard of the property, such antenna may be placed on the roof of a structure subject to the approval of the Zoning Administrator and subject to the other requirements of this Section.

(D) Screening shall be as deemed necessary by the Zoning Administrator for commercial installations.

(E) All parts of the parabolic or dish-type antenna structure must be a minimum of **three (3) feet** from all property lines of the lot.

(F) The parabolic or dish-type antenna shall be mounted on a steel pipe support embedded in a concrete foundation, and the parabolic or dish-type antenna, when turned perpendicular to the ground, together with the base, shall not extend more than **fifteen (15) feet** above the ground. The main diameter of the parabolic or dish-type antenna shall not exceed **eleven (11) feet**.

(G) All petitions for a variance from the provisions of this Section shall be heard by the Zoning Board of Appeals and as provided in **Article X, Division III**.

(H) A Zoning Occupancy Permit shall be required prior to erection of any such parabolic or dish-type antenna.

(I) No parabolic or dish-type antenna shall be roof mounted unless the dish is **six (6) feet** or less in diameter and is mounted on the rear portion of the roof.

(J) No parabolic or dish-type antenna shall be used or serve as a sign for the purpose of advertisement by a business or commercial unit.

(K) **Nuisance and Injunction.** Any violation of this Section is hereby declared to be a nuisance. In addition to any other relief provided by this Code, the City Attorney may apply to a Court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Section. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(L) This Section shall not apply to any existing parabolic or dish-type antennae which have been installed prior to the effective date of this Code.

**40-5-15      STORAGE CONTAINERS.** It shall be unlawful to locate in this City an accessory use known as a storage container consisting of either a railroad or train car, a truck body or shell or a truck trailer, licensed or unlicensed, on any lot in the City, unless the lot is in a zoned industrial district. All containers shall be closed and be secured when not in use. They shall meet all setbacks prescribed for accessory uses and located on a permanent foundation. The Zoning Administrator may submit all applications for a "storage unit" to the Zoning Board of Appeals if he feels that the unit is not consistent with this Section.

**40-5-16 - 40-5-30      RESERVED.**

**DIVISION II – COMMERCIAL SOLAR ENERGY FACILITY SITING**

**40-5-31      DEFINITIONS.**

(A) **"Applicant"** means the entity who submits to the City an application for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to Applicant in this Division shall include Applicant's successors-in-interest and assigns, which includes a Commercial Solar Energy Facility Permittee (as defined herein).

(B) **“Commercial Operation Date”** means the calendar date on which the Commercial Solar Energy Facility produces power for commercial sale, not including test power.

(C) **“Commercial Solar Energy Facility” or “Commercial Solar Energy System”** means any device or assembly of devices that is ground installed and uses solar energy from the sun for generating electricity for the primary purpose of wholesale or retail sale and not primarily for consumption on the property.

(D) **“Commercial Solar Energy Building Permit”** means a permit necessary for the commencement of work performed toward the construction, erection or installation of an approved Commercial Solar Energy Facility, Substation, Supporting Facilities, or operations and maintenance building in connection with a Commercial Solar Energy Facility. The Commercial Solar Energy Building Permit shall require the Applicant to deliver a written “Notice to Proceed” for the Commercial Solar Energy Facility to the City prior to commencement of construction of the Commercial Solar Energy Facility. The term “commencement of construction,” as used in this Division, includes any site development work (e.g., demolition, grubbing, grading, excavation, road work, construction of Project-related structures and infrastructure improvements, etc.) regarding the Commercial Solar Energy Facility.

(E) **“Commercial Solar Energy Facility Permittee”** means an Applicant who applies for and receives a Special Use Permit under this Division for the siting and operation of any Commercial Solar Energy Facility or Substation. All references to a Commercial Solar Energy Facility Permittee in this Division shall include a Commercial Solar Energy Facility Permittee’s successors-in-interest and assigns.

(F) **“Decommissioning”** means to return the property to its pre-installation state or better as approved in the decommissioning plan according to state law.

(G) **“Financial Assurance” or “Financial Security” or “Decommission Security”** means assurance from a credit worthy party, examples of which include a surety bond (e.g., performance and payment bond), trust instrument, cash escrow, or irrevocable letter of credit.

(H) **“Notice to Proceed”** means a written document, named as such, stating that the Applicant expresses an intent to commence construction activities on a Commercial Solar Energy Facility and identifying the date on which the construction activities are scheduled to commence.

(I) **“Nonparticipating property”** means real property that is not a participating property. “Nonparticipating residence” means a residence that is located on nonparticipating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the City.

(J) **“Occupied community building”** means any one or more of the following buildings that is existing and occupied on the date that the application for a permit to develop the Commercial Solar Energy Facility is filed with the City; a school, place of worship, day care facility, public library, or community center.

(K) **“Operator”** means the person or entity responsible for the day-to-day operation and maintenance of a Commercial Solar Energy Facility, including any third-party subcontractors. The Operator must be a qualified solar power professional. All references to Operator in the Division shall include Operator’s successors-in-interest and assigns.

(L) **“Owner”** means the person or entity or entities with an equity interest in a Commercial Solar Energy Facility, including their respective successors-in-interest and assigns. The Owner does not mean (i) the property owner from whom land is leased for locating a Commercial Solar Energy Facility (unless the property owner has an equity interest in a Commercial Solar Energy Facility); or (ii) any person holding a security interest in a Commercial Solar Energy Facility solely to secure an extension of credit, or a person foreclosing on such security interest, provided that after foreclosure, such person seeks to sell a Commercial Solar Energy Facility at the earliest practicable date. This definition includes the definition of Facility Owner as defined in 55 ILCS 5/5-12020.

(M) **“Participating property”** means real property that is the subject of a written agreement between a facility owner and the owner of the real property that provides the facility owner an easement, option, lease, or license to use the real property for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities. “Participating

property" also includes real property that is owned by a facility owner for the purpose of constructing a Commercial Solar Energy Facility or supporting facilities.

(N) **Participating residence** means a residence that is located on participating property and that is existing and occupied on the date that an application for a permit to develop the Commercial Solar Energy Facility is filed with the City.

(O) **Permit** means a permit approved by the City Council, after a public hearing, allowing a particular use at a specified location subject to compliance with certain specified special conditions as may be required by the City Council.

(P) **Professional Engineer** means a qualified individual who is licensed as a professional engineer in any state in the United States. Where a structural engineer is required to take some action under terms of this Division, a Professional Engineer may serve as the structural engineer if he or she has the appropriate structural engineering certification.

(Q) **Protected lands** means real property that is subject to a permanent conservation right consistent with the Real Property Conservation Rights Act or registered or designated as a nature preserve, buffer, or land and water reserve under the Illinois Natural Areas Preservation Act.

(R) **Public Conservation Lands** means land owned in fee title by City, state or federal agencies and managed specifically for conservation purposes, including but not limited to City, state and federal parks, state and federal wildlife management areas, state scientific and natural areas, and federal wildlife refuges and waterfowl protection areas. Public conservation lands do not include private lands upon which conservation easements have been sold to government agencies or non-profit conservation organizations. Public conservation lands also do not include private lands for which the owners have entered into contractual relationships with government or non-profit conservation organizations for conservation purposes.

(S) **Substation** means the apparatus that collects and connects the electrical collection system of the Commercial Solar Energy Facility and increases the voltage for connection with the utility's transmission lines.

(T) **Supporting Facilities** means the transmission lines, substations, access roads, storage containers, and equipment associated with the generation and storage of electricity by the Commercial Solar Energy Facility.

**40-5-32      APPLICABILITY.** This Division governs the siting of Commercial Solar Energy Facilities and Substations that generate electricity to be sold to wholesale or retail markets.

**40-5-33      PROHIBITION.** No Commercial Solar Energy Facility or Substation governed by this Division shall be constructed, erected, installed, or located within the City, and the area covered within the City's zoning code unless prior siting approval has been obtained for each individual Commercial Solar Energy Facility or for a group of Commercial Solar Energy Facilities under a joint siting application pursuant to this Division.

**40-5-34      PERMIT APPLICATION.**

(A) To obtain siting approval, the Applicant must first submit a Special Use Permit application to the City.

(B) The Special Use Permit application shall contain or be accompanied by the following information:

- (1) A Commercial Solar Energy Facility Summary, including, to the extent available:
  - (a) a general description of the project, including
    - (i) its approximate overall name plate generating capacity;
    - (ii) the potential equipment manufacturer(s),
    - (iii) type(s) of solar panels, cells and modules,

- (iv) the number of solar panels, cells and modules,
- (v) the maximum height of the solar panels at full tile,
- (vi) the number of Substations,
- (vii) a project site plan, project phasing plan and project construction timeline plan, and
- (viii) the general location of the project; and
- (b) a description of the Applicant, Owner and Operator, including their respective business structures;
- (2) The name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s), if known, and documentation demonstrating land ownership or legal control of the property.
- (3) A site plan for the Commercial Solar Energy Facility showing the planned location of solar panels, including legal descriptions for each site, Participating and Non-participating Residences, Occupied Community Buildings, parcel boundary lines (including identification of adjoining properties), setback lines, public access roads and turnout locations, Substation(s), operations and maintenance buildings, electrical cabling to the Substation(s), ancillary equipment, third party transmission lines, the location of any wetlands, flood plain, drainage structures including surface ditches and subsurface drainage lines, underground mines, scenic and natural areas within **one thousand five hundred (1,500) feet** of the proposed Commercial Solar Energy Facility, and the layout of all structures within the geographical boundaries of any applicable setback;
- (4) A proposed Decommissioning Plan for the Commercial Solar Energy Facility;
- (5) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Division;
- (6) An Agricultural Impact Mitigation Agreement (AIMA) executed between the Applicant and the Illinois Department of Agriculture;
- (7) The topographic map shall include the Commercial Solar Energy Facility site and the surrounding area;
- (8) Any other information normally required by the City as part of its permitting requirements for siting buildings or other structures;
- (9) Waivers from the setback requirements executed by the occupied community building owners and/or the non-participating property owners bearing a file stamp from the County Recorder of Deeds Office confirming that the waiver was recorded against title to the affected real property.
- (10) Results and recommendations from the Illinois Dept. of Natural Resources obtained through the Ecological Compliance Assessment Tool or a comparable successor tool.
- (11) Results of any United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with any applicable United States Fish and Wildlife Service's solar wildlife guidelines.
- (12) Information demonstrating that the Commercial Solar Energy Facility will avoid protected lands.
- (13) Any other information requested by the City or the City consultants that is necessary to evaluate the siting application and operation of the Commercial Solar Energy Facility and to demonstrate that the Commercial Solar Energy Facility meets each of the regulations in this Division, including the Special Use Permit standards set forth below.

(C) Material changes to the application are not permitted once the notice of the public hearing has been published, unless requested or permitted by the City; and

(D) The Applicant shall submit **twelve (12) copies** of the Special Use Permit application to the City, and at least **one (1)** copy in electronic format.

40-5-35

**DESIGN AND INSTALLATION.****Design Safety Certification.**

(1) Commercial Solar Energy Facilities shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), or an equivalent third party. All solar panels, cells and modules; solar panel mounts and racking, including any helical piles, ground screws, ballasts, or other anchoring systems shall be new equipment commercially available; no used or experimental equipment shall be used without the approval of a variance by the City Council.

(2) Following the granting of siting approval under this Division, a structural engineer shall certify, as part of the Commercial Solar Energy Facility Building Permit application process, that the design of the Commercial Solar Energy Facility is within accepted professional standards, given local soil, subsurface and climate conditions.

(B) **Electrical Components.** All electrical components of the Commercial Solar Energy Facility shall conform to applicable local, state, and national codes, and relevant national and international standards (e.g., ANSI and International Electrical Commission).

(C) **Height.** No component of a solar panel, cell or modules may exceed **twenty (20) feet** in height above the ground at full tilt.

**(D) Aesthetics and Lighting.**

(1) **Vegetative Screening.** A vegetative screen shall be provided for any part of the Commercial Solar Energy Facility that is visible to Non-participating Residence. The landscaping screen shall be located between the required fencing and the property line of the participating parcel upon which the facility sites. The vegetative screening shall include a continuous line of native evergreen foliage and/or native shrubs and/or native trees and/or any existing wooded area and/or plantings of tall native grasses and other native flowering plants. The vegetative screening shall match or exceed full tile height.

(2) **Lighting.** If lighting is provided at the Commercial Solar Energy Facility, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.

(3) **Intra-project Power and Communication Lines.** All powers lines used to collect power and all communication lines shall be buried underground at a depth in accordance with the Agricultural Impact Mitigation Agreement until same reach the property line or a substation adjacent to the property line.

(4) **Weed/Grass Control.** Applicant must present an acceptable weed control plan for property inside and outside fenced area for entire property. The operating company during the operation of the solar farm must maintain the fence and adhere to the weed/grass control plan. If the operating company does not there can be a fine of **Five Hundred Dollars (\$500.00) to One Thousand Dollars (\$1,000.00)** per week if the fence is not secure or the weed/grass control plan is not followed.

(E) **Fencing.** A fence of at least **six (6) feet** and not more than **twenty-five (25) feet** in height shall enclose and secure the Commercial Solar Energy Facility.

(F) **Warnings.**

- (1) A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
- (2) Visible, reflective, colored objects, such as flags, plastic sleeves, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of **fifteen (15) feet** from the ground.

(G) **Setback Requirements.**

- (1) The Commercial Solar Energy Facility shall be sited as follows, with setback distances measured from the nearest edge of any component of the facility:
  - (a) Occupied Community Buildings and Dwellings on Nonparticipating Properties: **one hundred fifty (150) feet** to the nearest point on the outside wall of the structure.
  - (b) Nonparticipating Residences: **one hundred fifty (150) feet** to the nearest point on the outside wall of the structure.
  - (c) Boundary Lines of Participating Property: None.
  - (d) Boundary Lines of Nonparticipating Property: **fifty (50) feet** to the nearest point on the property line of the nonparticipating property.
  - (e) Public Road Rights-of-Way: **fifty (50) feet** to the nearest edge of the public road right-of-way.
- (2) The setback requirements for Nonparticipating properties may be waived by the written consent of the owner(s) of each affected Nonparticipating property. The Applicant does not need to obtain a variance from the City upon waiver by the property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded with the Recorder of Deeds of the County.

(H) **Compliance with Additional Regulations.** Nothing in this Division is intended to preempt other applicable state and federal laws and regulations.

(I) **Use of Public Roads.**

- (1) An Applicant proposing to use any County, municipality, township or city road(s), for the purpose of transporting Commercial Solar Energy Facility or Substation parts and/or equipment for construction, operation, or maintenance of the Commercial Solar Energy Facility or Substation(s), shall:
  - (a) Identify all such public roads; and
  - (b) Obtain applicable weight and size permits from relevant government agencies prior to construction.
- (2) To the extent an Applicant must obtain a weight or size permit from the County, municipality, township or city, the Applicant shall:
  - (a) Conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage; and
  - (b) Any proposed public roads that will be used for construction purposes shall be identified and approved in writing by the respective Road District Commissioner and the City Engineer prior to the granting of the Building Permit. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of the facility's equipment, the installation,

maintenance, or removal, must be completely repaired to the reasonable satisfaction of the Road District Commissioner and the City Engineer. The Road District Commissioner and City Engineer may choose to require either remediation of road repair upon completion of the Community Solar Energy or are authorized to collect fees for overweight and/or oversized load permits. Further, financial assurance in an amount to be fixed by the Road District Commissioner to ensure the Road District or the City that future repairs are completed to their reasonable satisfaction shall be provided. Applicant shall submit a draft form of said financial assurance with application for Special Use Permit.

(c) Prior to any build permit, enter into a road use agreement with the City and each affected Road District that includes the following provisions, at a minimum:

- (i) Project layout map;
- (ii) Transportation impact analysis;
- (iii) Pre-construction plans;
- (iv) Project traffic map;
- (v) Project scope of repairs;
- (vi) Post-construction repairs;
- (vii) Insurance;
- (viii) Financial Security in forms and amounts acceptable to the City;

The road use agreement shall require Applicant to be responsible for the reasonable cost of improving roads used to construct Commercial Solar Energy Facility and the reasonable cost of repairing roads used by the facility owner during construction of the Community Solar Energy Facility so that those roads are in a condition that is safe for the driving public after the completion of the Commercial Solar Energy Facility construction. Roadways improved in preparation for and during the construction of the Community Solar Energy Facility shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.

(3) All repairs and improvements to public roads and roadway appurtenances shall be subject to the prior approval of the City before being made and shall also be subject to inspection and acceptance by the City after such repairs and improvements are completed. The City may retain a third-party engineer to conduct any studies for the City at the developer or owner's expense. The City's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of public roads and highways, must be approved by the City Council prior to the Council's approval of any Commercial Solar Energy Facility Building Permit applications related to the construction of the proposed Commercial Solar Energy Facility.

(J) **Site Assessment.** To ensure that the subsurface conditions of the site will provide proper support for the Commercial Solar Energy Facility and soil restoration, the Applicant, at its expense, shall provide soil and geotechnical boring reports to the City Engineer as part of its Commercial Solar Energy Facility Building Permit. The Applicant shall follow the guidelines for Conservation Practices Impact Mitigation submitted by the County Soil and Water Conservation District (or equivalent regulatory agency). Also, the Applicant shall submit grading plans for the proposed Substations for review and comment by the County Soil and Water

Conservation District prior to the issuance of any Commercial Solar Energy Facility Building Permit for the construction of said substations.

(K) **Noise Levels.** Noise levels from Commercial Solar Energy Facilities shall be in compliance with applicable Illinois Pollution Control Council (IPC3) regulations. The Applicant shall submit manufacturer's sound power level characteristics and other relevant data regarding noise characteristics necessary for a competent noise analysis. The Applicant, through the use of a qualified professional, shall appropriately demonstrate compliance with the applicable noise requirements in its Special Use Permit application.

(L) **Agricultural Impact Mitigation.** Pursuant to 505 ILCS 147/15(a), the Applicant, at its expense, shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture prior to any public hearing required before a siting decision on the Commercial Solar Energy Facility application. All impacted agricultural land, whether impacted during construction, operation, or decommissioning activities, must, at a minimum, be remediated by the Applicant pursuant to the terms of the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture. The Applicant shall submit the executed Agricultural Impact Mitigation Agreement to the City as part of the Special Use Permit application.

(M) **As-Built Map and Plans.** Within sixty (60) calendar days of completion of construction of the Commercial Solar Energy Facility, the Applicant or Operator shall deliver "as-built" maps, site plan and engineering plans for the Commercial Solar Energy Facility that have been signed and stamped by a Professional Engineer and a licensed surveyor.

(N) **Engineer's Certificate.** The Commercial Solar Energy Facility engineer's certificate shall be completed by a structural engineer registered in the State of Illinois or by a Professional Engineer with a certification from a structural engineer registered in the State of Illinois and shall certify that the specific soils and subsurface conditions at the site can support the apparatus, given local soil, subsurface and climate conditions. The Commercial Solar Energy Facility engineer's certificate shall be a public record and shall be submitted as part of the Special Use Permit application.

(O) **Conformance with Approved Application and Plans.** The Applicant shall construct and operate the Commercial Solar Energy Facility in substantial conformance with the construction plans contained in a City-approved submitted Special Use Permit application(s), conditions placed upon the operation of the Facility, this Division and all applicable state, federal and local laws and regulations.

(P) **Additional Terms and Conditions.**

(1) All technical submissions as defined in the Professional Engineering Practice Act of 1989 (225 ILCS 325/4(w)) and contained in the Special Use Permit Application shall be prepared and signed by an Illinois Professional Engineer (or structural engineer) for the relevant discipline.

(2) The City may retain qualified, independent code inspector or professional engineer both to make appropriate inspections of the Commercial Solar Energy Facility during and after construction and to consult with the City to confirm that the construction, substantial repair, replacement, repowering and/or decommissioning of the Commercial Solar Energy Facility is performed in compliance with applicable electrical and building codes. The cost and fees so incurred by the City in retaining said inspector or engineer shall be promptly reimbursed by the Applicant of the Commercial Solar Energy Facility.

(3) The Special Use Permit granted to the Applicant shall bind and inure to the benefit of the Applicant, its successors-in-interest and assigns. If any provision in this Division, or conditions placed upon the operation of the Commercial Solar Energy Facility is held invalid, such invalidity shall not affect any other provision of this Division that can be given effect without the invalid provision and, to this end, the provisions in this Division are severable.

(4) The Applicant shall provide an executed road use agreement between the Applicant and the appropriate governing road and highway jurisdictions or the Illinois Department of Transportation, to the City showing approved entrances prior to the issuance of any Commercial Solar Energy Facility Building Permit.

(5) **Endangered Species and Wetlands.** Solar power plant developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the department's online EcoCat program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer. Applicants may also be required to provide the results of the United States Fish and Wildlife Service's Information for Planning and Consulting environmental review or a comparable successor tool that is consistent with (i) the "U.S. Fish and Wildlife Service's Land-Based Wind Energy Guidelines" and (ii) any applicable United States Fish and Wildlife Service solar wildlife guidelines that have been subject to public review. The City may require a facility owner to:

- (a) demonstrate avoidance of protected lands as identified by the Illinois Department of Natural Resources and the Illinois Nature Preserve Commission; or
- (b) consider the recommendations of the Illinois Department of Natural Resources for setbacks from protected lands, including areas identified by the Illinois Nature Preserve Commission;
- (c) provide evidence of consultation with the Illinois State Historic Preservation Office to assess potential impacts on State-registered historic sites under the Illinois State Agency Historic Resources Preservation Act.
- (d) To maximize community benefits, including, but not limited to, improved soil health, and increased foraging habitat for game birds, songbirds, and pollinators, a City may (1) require a commercial solar energy facility owner to plant, establish, and maintain for the life of the facility vegetative ground cover, consistent with the goals of the Pollinator-Friendly Solar Site Act and (2) require the submittal of a vegetation management plan in the application to construct and operate a commercial solar energy facility in the City.

40-5-36

(A)

**OPERATION.**  
**Maintenance.**

(1) **Annual Report.** The Applicant must submit, on an annual basis on the anniversary date of the Special Use Permit application, an operation and maintenance report to the City. The report shall contain the following information: (a) a general description of any physical repairs, replacements or modification(s) to the Commercial Solar Energy Facility and/or its infrastructure; (b) complaints pertaining to setbacks, noise, appearance, safety, lighting and use of any public roads received by the Applicant concerning the Commercial Solar Energy Facility and the resolution of such complaints; (c) calls for emergency services; (d) status of liability insurance; and (e) a general summary of service calls to the Commercial Solar Energy Facility. Failure to provide the annual report shall be considered a material violation of this Division and subject to **Section 40-5-39 (Remedies)**. The annual

report is to be reviewed by independent PE and the cost of review should be borne by the Applicant.

(2) **Re-Submittal of Special Use Permit.** Any physical modification to the Commercial Solar Energy Facility that alters the mechanical load, or increases the megawatts of the facility, or mechanical load path, or major electrical components shall require re-certification under **Section 40-5-36(A)(1)** of this Division. Like-kind replacements and modifications that are made in the ordinary course of operations, including expected repairs and warranty items, shall not require re-submittal of Special Use Permit. Prior to making any physical modification (other than a like-kind replacement or other modifications made in the ordinary course of operations), the Applicant shall confer with a relevant third-party certifying entity identified in Design and Safety Certification section, paragraph 1, of this Division to determine whether the physical modification requires re-certification.

(B) **Coordination with Emergency Responders.**

(1) The Applicant shall submit to the local emergency responders a copy of the Site Plan, Standard Operating Procedures (SOPs) and Standard Operating Guidelines (SOGs), and any amendments to such documents, for the Commercial Solar Energy Facility so that the local law enforcement, fire protection district and rescue units, emergency medical service providers and emergency management service providers that have jurisdiction over each tower site may evaluate and coordinate their emergency response plans with the Applicant of the Commercial Solar Energy Facility.

(2) The Applicant, at its expense, shall provide annual training for, and the necessary equipment to, the Operator and local emergency response authorities and their personnel so that they can properly respond to a potential emergency at the Commercial Solar Energy Facility.

(3) The Applicant and the Operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan shall include, at a minimum, 24-hour contact information (names, titles, email addresses, cell phone numbers) for the Applicant and the Operator and at least **three (3)** designated Commercial Solar Energy Facility representatives (a primary representative with **two (2)** alternate representatives, each of whom are on-call “24 hours per day / 7 days per week / 365 days per year”). Any change in the designated Commercial Solar Energy Facility representative or his/her contact information shall be promptly communicated to the City and County. The content of the emergency response plan, including the 24-hour contact information, shall be reviewed and updated on an annual basis.

(4) Nothing in this Section shall alleviate the need to comply with all other applicable life safety, fire/emergency laws and regulations.

(C) **Water, Sewer, Materials Handling, Storage and Disposal.**

(1) All solid waste related to the construction, operation and maintenance of the Commercial Solar Energy Facility shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

(2) All hazardous materials related to the construction, operation and maintenance of the Commercial Solar Energy Facility shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

(3) The Commercial Solar Energy Facility shall comply with existing septic and well regulations as required by the County Health Department and the State of Illinois Department of Public Health.

(D) **Signage.** Signage regulations are to be consistent with ANSI standards. A reasonably visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations, and at all entrances to the Commercial Solar Energy Facility.

(E) **Drainage Systems.** The Applicant, at its expense, will repair, in a prompt and timely manner, all waterways, drainage ditches, agricultural drainage systems, field tiles, or any other private and public infrastructure improvements damaged during construction, maintenance and operation phases of the Commercial Solar Energy Facility in accordance with the Agricultural Impact Mitigation Agreement.

(F) **Complaint Resolution.** The Applicant shall, at its expense and in coordination with the City, develop a system for logging and investigating complaints related to the solar Project. The Applicant shall resolve such non-emergency complaints on a case-by-case basis and shall provide written confirmation to the City. All costs and fees incurred by the City in attempting to or resolving complaints shall be reimbursed by the Applicant of the solar Project. The Applicant shall also designate and maintain for the duration of the solar Project either a local telephone number or a toll-free telephone number and an email address as its public information inquiry and complaint “hotline” which shall be answered by a customer service representative 24/7 basis. The Applicant shall post the telephone number(s) and email address(es) of the customer service representative(s) in a prominent, easy to find location on their websites and at the solar Project site on signage.

**40-5-37 LIABILITY INSURANCE AND INDEMNIFICATION.** Commencing with the issuance of a Commercial Solar Energy Facility Building Permit, the Applicant shall maintain a current general comprehensive liability policy and automobile liability coverage covering bodily injury, death and illness, and property damage with limits of at least **Five Million Dollars (\$5,000,000.00)** per occurrence and in the aggregate; and, shall further maintain the above-stated lines of insurance from delivery of the Notice to Proceed by the Applicant for the Commercial Solar Energy Facility, in coverage amounts of at least **Five Million Dollars (\$5,000,000.00)** per occurrence and **Twenty Million Dollars (\$20,000,000.00)** in the aggregate during the life of the Commercial Solar Energy Facility. The Applicant shall file the original certificate of insurance upon commencement of project construction prior to the issuance of a Commercial Solar Energy Facility Building Permit, corresponding policies, and endorsements to be provided within **sixty (60) days** of issuance, and at each subsequent renewal, at least annually thereafter.

The Applicant and/or owner shall defend, indemnify and hold harmless the City and its officers, appointed and elected officials, employees, attorneys, engineers and agents (collectively and individually, the “Indemnified Parties”) from and against any and all claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorney’s fees relating to or arising out of the issuance of the Special Use Permit or the construction, operation, maintenance and removal of the Commercial Solar Energy Facility including, without limitation, liability for property damage or personal injury (including death or illness), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence) or any acts or omissions of the Applicant, the Owner or the Operator under this Division or the Special Use Permit, except to the extent any such claims, demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities arise from the negligence or intentional acts of such Indemnified Parties. This general indemnification shall not be construed as limiting or qualifying the City’s other indemnification rights available under the law.

**40-5-38 DECOMMISSIONING AND SITE RECLAMATION PLAN REQUIRED.**

Applicant (or Owner, if different from Applicant) must submit a Decommissioning Plan with cost estimation to the City as part of the siting application and provide testimony supporting the

calculation of costs provided in said plan during the public hearing on the application. Prior to receiving any building permit for the Commercial Solar energy Facility, the Applicant or Owner shall provide a Decommissioning Agreement and post the required Financial Assurances for the benefit of the City. The Decommissioning Agreement and Financial Assurances shall comply with **55 ILCS 5/5-12028**. Periodically, and as required by the Agricultural Impact Mitigation Agreement, the Owner must update the Decommissioning Plan, cost estimations, and provide updated Financial Assurances to the benefit of the City.

**40-5-39        REMEDIES.**

(A) The Applicant's failure to materially comply with any of the provisions under the Special Use Permit, any conditions imposed on the project, and/or failure to comply with any law or regulation shall be a default and shall be grounds for revocation of the Special Use Permit by the City Council.

(B) Prior to implementation of the applicable City procedures for the resolution of default(s), the City Council must first provide written notice to the Applicant and Operator, setting forth the alleged default(s) and provide an opportunity for the Applicant or the Operator to cure the default(s) within a **thirty (30) calendar day** period from the date of the notice. Should the Applicant commence the cure within that 30-day cure period, and diligently pursues a cure, then the Applicant shall receive an additional **sixty (60) days** to continue to pursue the cure before the City pursues procedures for the resolution of default. If the default relates to a life safety issue or interference with local, government public safety (police, fire, emergency medical services, emergency management services, 911 dispatch) communications, the Applicant or the Operator shall take all necessary and available commercial measures to immediately cure the default. If the Applicant or Operator cannot cure the default(s) or resolve the alleged default(s) within the cure period, then applicable City ordinance provisions addressing the resolution of such default(s) shall govern.

**40-5-40        FEE SCHEDULE AND PERMITTING PROCESSES.**

**Application Fees.**

(1) An application fee is required to be obtained prior to the construction/installation of each solar renewable energy facility or addition to a pre-existing facility. The fee shall be based upon nameplate megawatt capacity according to the following schedule:

Less than 2 Megawatt	\$5,000.00
2-5 Megawatt	\$7,500.00
5+ Megawatt	\$10,000.00

These funds shall be placed in an FDIC insured account and will be used to cover the City's cost incurred in processing the Application.

(2) Should the actual costs to the City exceed the submitted Application Fee, the Applicant shall be responsible for those additional costs and shall remit additional funds to the City within **fifteen (15) days** of receipt of a request from the City. No hearings on an Application shall be conducted nor final decisions rendered on an Application if there are Application fees due to the City.

(3) Any unused amounts of the Application Fee shall be refunded to the Applicant within **six (6) months** of the City Council rendering a final decision on the matter, unless any pending litigation, disputes or negotiations involving the City exist regarding the Commercial Solar Energy Facility, in which case any amounts owed to the Applicant shall be refunded within **six (6) months** of the conclusion of the litigation, disputes or negotiations. An Applicant may request any unused Application Fee be applied toward the Building Permit Fees for the Facility.

(B) **Building Permit Fees.** Prior to the issuance of building permits, the Building Permit Applicant must deposit a Building Permit Fee equating to **Seven Thousand Two Hundred Fifty Dollars (\$7,250.00)** per megawatt (mW) of nameplate capacity. If the total nameplate capacity is less than 1 mW, the building permit fee shall be reduced pro rata.

(C) **All Costs to be Paid by Applicant or Owner.** In addition to all fees noted above, the Applicant or Owner shall pay all costs incurred by the City, including but not limited to, those costs associated with all offices, boards and commissions of the City, and third-party costs incurred by the City. This includes, but is not limited to, the direct or indirect costs associated with the hearing, permitting, operations, inspections, decommissioning, litigation, disputes, and/or negotiations.

**40-5-41        HEARING FACILITATOR.** The City may engage the services of a hearing facilitator. The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the Council and the City but has no adjudicatory responsibility other than ruling on requests for continuances, procedural matters.

The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois. The Applicant shall reimburse the City for the fees and costs charged by the facilitator.

**40-5-42        HEARING FACTORS.**

(A) The City Council shall approve a Commercial Solar Energy Facility Special Use Permit application, if it finds the evidence complies with state and federal law and regulations, and with the standards of this Code including the factors listed below. The factors below are applied as a balancing test, not individual requirements to be met.

- (1) The establishment, maintenance or operation of the Commercial Solar Energy Facility will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- (2) The Commercial Solar Energy Facility will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values of surrounding properties;
- (3) The establishment of the Commercial Solar Energy Facility will not impede the normal and orderly development and improvement of the surrounding properties;
- (4) Adequate public utilities, access roads, drainage and/or necessary facilities have been or will be provided;
- (5) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
- (6) The proposed Commercial Solar Energy Facility is not contrary to the objectives of the current comprehensive plan of the City (if any); and
- (7) The Commercial Solar Energy Facility shall, in all other respects, conform to the applicable regulations of this Division and the zoning district in which it is located, except as such regulations may, in each instance, be modified pursuant to the recommendations of and approved by the City Council.

(B) **Special Use Permit Conditions and Restrictions.** The Zoning Board of Appeals may stipulate conditions, guarantees and restrictions, upon the establishment, location, construction, maintenance, and operation of the Commercial Solar Energy Facility as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of this Division.

**(C) Revocation.**

- (1) In any case where a Special Use Permit has been approved for a Commercial Solar Energy Facility, the Applicant shall apply for a Commercial Solar Energy Facility Building Permit from the City

and all other permits required by other government or regulatory agencies to commence construction and commence and actively pursue construction of the Project within **thirty-six (36) months** from the date of the granting of the Special Use Permit. If the Applicant fails to apply for a Commercial Solar Energy Facility Building Permit from the City and all other permits required by other government or regulatory agencies prior to construction and/or fails to commence and actively pursue construction of the Project within the **thirty-six (36) month** period, then without further action by the City Council, the Special Use Permit authorizing the construction and operation of the Commercial Solar Energy Facility shall be automatically revoked and void. Upon written request supported by evidence that the Applicant has diligently pursued issuance of all necessary government and regulatory permits for the Project required to commence construction and that any delay in commencement of construction of the Project is due to conditions out of his/her/its control, the City Council, in its sole discretion, may extend the above **thirty-six (36) month** period by passage of an ordinance that amends the Special Use Permit.

- (2) The Special Use Permit shall be subject to revocation if the Applicant dissolves or ceases to do business, abandons the Commercial Solar Energy Facility or the Commercial Solar Energy Facility ceases to operate for more than **six (6) consecutive months** for any reason.
- (3) Subject to the provisions of **Section 40-5-39 (Remedies)**, a Special Use Permit may be revoked by the City Council if the Commercial Solar Energy Facility is not constructed, installed and/or operated in substantial conformance with the City-approved Project plans, the regulations of this Division and the stipulated Special Use Permit conditions and restrictions.

**(D) Transferability; Owner or Commercial Solar Energy Facility Permittee.**

The Applicant shall provide written notification to the City Council at least **thirty (30) days** prior to any change in ownership of a Commercial Solar Energy Facility of any such change in ownership. The phrase "change in ownership of a Commercial Solar Energy Facility" includes any kind of assignment, sale; lease, transfer of other conveyance of ownership or operating control of the Applicant, the Commercial Solar Energy Facility or any portion thereof. The Applicant or successors-in-interest or assignees of the Special Use Permit, as applicable, shall remain liable for compliance with all conditions, restrictions and obligations contained in the Special Use Permit, the provisions of this Division and applicable City, state and federal laws.

**(E) Modification.** Any modification of a Commercial Solar Energy Facility that alters or changes the essential character or operation of the Commercial Solar Energy Facility in a way not intended at the time the Special Use Permit was granted, or as subsequently amended, shall require a new Special Use Permit. The Applicant or authorized representative shall apply for an amended Special Use Permit prior to any modification of the Commercial Solar Energy Facility.

**(F) Permit Effective Date.** The Special Use Permit shall become effective upon approval of the ordinance by the City Council.

**(G) Time Requirements.** Applicants or owners shall have **one (1) year** to apply for a building permit after issuance of a Special Use Permit and **two (2) years** thereafter to complete the project. Failure to comply with timing requirements in this subsection paragraph (G) will invalidate Special Use Permit. Variance may be applied for if timing restraints might be breached.

**40-5-43 INTERPRETATION.** The provisions of these regulations shall be held to the minimum requirements adopted for the promotion and preservation of public health, safety and general welfare of the City. These regulations are not intended to repeal, abrogate, annul or in any manner interfere with existing regulations or laws of the City nor conflict with any statutes of the State of Illinois.

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## ARTICLE VI - SIGN REGULATIONS

**40-6-1        GENERAL PROHIBITION.** Any sign not expressly permitted in this Article shall be deemed prohibited.

**40-6-2        COMPUTATION OF SIGN AREA ALLOWANCE.** Within the limitations and restrictions as further provided in this Article, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

**one (1) square foot of sign area per one (1) foot of street frontage or two (2) square feet of sign for each lineal foot of the front width of the business.**

provided, however, that no establishment in any district shall display more than three hundred (300) square feet of sign on any street front.

**40-6-2.1        DEFINITION OF SIGN AREA.** As used in this Article, the term "sign area" means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign. (See Figures 3 and 4 at End of Code)

**40-6-2.2        SPECIAL SITUATIONS.**

(A) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any one frontage a greater area of signs than would be permitted by application of the formula set forth above.

(B) The side of an establishment adjacent to an off street parking area shall not be deemed frontage unless the establishment has no other frontage.

**40-6-3        SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.**

(A) No sign shall be erected, relocated or maintained so as to prevent free access or egress from any door, window, fire escape, or driveway.

(B) No sign shall be erected or maintained in such a manner that it interferes with, obstructs the view of, or is likely to be confused with any authorized traffic control device.

(C) Every sign shall be designed and constructed in conformity with any applicable provisions of the adopted Building Code, if any.

(D) Every sign and appurtenance shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted to prevent rust or deterioration.

**40-6-4        ILLUMINATION.** Illumination of signs is permitted, subject to the following requirements:

(A) No sign shall employ red, yellow, or green lights in such a manner as to confuse or interfere with vehicular traffic.

(B) No sign other than those providing time and temperature information shall have blinking, flashing, or fluttering lights or any other illuminating device which has a changing light intensity, brightness, or color; provided, however, that this provision shall not apply to any message on any electronically operated, changeable sign.

(C) The light from any illuminated sign shall be shaded, shielded, or directed so that it creates neither a nuisance to adjacent property nor a traffic hazard.

**40-6-5        NONCONFORMING SIGNS.** A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

**40-6-6        RESTRICTIONS.** Any nonconforming sign as defined in **Section 40-6-5** that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article VIII** of this Code; provided as follows:

- (A)        Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;
- (B)        Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in the Agricultural District or in any residential district, said sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.

**40-6-7        STRICTLY PROHIBITED SIGNS.** Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the City:

- (A)        Mobile/Portable Marquees; except that they may be permitted as a temporary sign. **(See Section 40-6-11)**
- (B)        Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.
- (C)        Defunct Signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located.
- (D)        Roof-mounted signs, that project or protrude above the highest point of the roof.

**40-6-8        SIGNS PERMITTED IN ANY DISTRICT.** Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the City. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance. **(See Section 40-6-2)**

- (A)        Construction Signs identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **twenty-four (24) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.
- (B)        Real Estate Signs, indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **six (6) square feet**; on other property, such signs shall not exceed **sixteen (16) square feet**. Not more than one (1) real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.
- (C)        Political Signs, announcing candidates seeking public/political office and/or political issues and other pertinent information: In all zone districts, political signs shall not exceed **eight (8) square feet**. Political signs shall not be displayed more than **forty-five (45) days** prior to and must be removed within **seven (7) days** after the election to which they pertain, by the party responsible for their erection. No signs shall be placed on public rights-of-way.
- (D)        Garage Sale Signs, advertising a garage or yard sale to be held on private residential property: Such signs shall not exceed **four (4) square feet**, and shall not be posted for longer than **five (5) days**.
- (E)        Public Interest Signs and Street Banners, publicizing a charitable or non-profit event of general public interest: In the Agricultural District, and in any Residential District, public interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **sixty (60) days** before and **seven (7) days** after the event.

(F) **Governmental, Public, and Directional Signs:** Such as traffic control signs; railroad crossing signs; legal notices; signs indicating the location of underground cables; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones; restrooms, and so forth.

(G) **Institutional Signs** identifying a public, charitable, or religious institution: Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists, and shall not exceed **twenty-four (24) square feet**.

(H) **Integral Signs** carved into stone or inlaid so as to become part of the building, and containing such information as date of erection, name of building, and memorial tributes.

(I) **Home Occupation Signs**, identifying only the name and occupation of the residents: Home occupation signs shall not be illuminated, and shall not exceed **four (4) square feet**.

(J) **Subdivision Entrance Signs**, identifying a residential subdivision or apartment complex: Such signs shall contain no commercial advertising, and shall not exceed **twenty (20) square feet**.

(K) **Permanent House Numbers and/or Permanent Name of Occupant Signs** located on the lot to which the sign applies: Such signs shall not exceed **two (2) square feet** for single-family dwellings, nor **six (6) square feet** for multiple-family dwellings.

(L) **Signs Located in the Interior of Any Building** or within an enclosed lobby or court of any building or group of buildings, provided such signs are designed and located to be viewed exclusively by the patrons or residents of such buildings.

**40-6-9        AGRICULTURAL; RESIDENTIAL DISTRICTS.** No sign other than those listed in **Section 40-6-8** shall be erected in the Agricultural District or in any Residential District.

**40-6-10        BUSINESS; INDUSTRIAL DISTRICTS.** No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-6-2 and 40-6-8**.

Additionally, signs in any Business District or in the Industrial District shall conform to the requirements indicated in the subsections below:

**40-6-10.1        FLUSH-MOUNTED SIGNS.** No flush-mounted (wall) sign shall:

- (A) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or
- (B) Extend above the roof line of the building to which it is attached.

**40-6-10.2        WINDOW SIGNS.** Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.

**40-6-10.3        PROJECTING SIGNS.** No establishment shall display more than **one (1) projecting sign** on any street front. No projecting sign shall:

- (A) Project above the roof line of the building to which it is attached; or
- (B) Extend below a point **eight (8) feet** above the ground or pavement; or
- (C) Project over a driveway or beyond the curbline of any public street; or
- (D) Project more than **four (4) feet** from the building to which it is attached; or
- (E) Extend to a point above **twelve (12) feet**.

**40-6-10.4        CANOPY OR MARQUEE SIGNS.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs, and shall meet the requirements of

**Subsection 40-6-10.1.** Signs suspended beneath a canopy or marquee shall be considered projecting signs, and shall meet the requirements of **Subsection 40-6-10.3.**

**40-6-10.5 FREESTANDING SIGNS.** No establishment shall display more than one (1) freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:

- (A) No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point ten (10) feet above the ground or pavement shall be located closer than ten (10) feet from the public right-of-way line.
- (B) The area of any freestanding sign, calculated in accordance with **Subsection 40-6-2.1** shall not exceed one hundred (100) square feet.
- (C) When attached to its structural supports, no part of any freestanding sign shall extend more than twenty (20) feet above the ground or pavement.
- (D) The length or width of any freestanding sign shall not exceed twelve (12) feet.

**40-6-10.6 BILLBOARDS.** Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:

- (A) Be stacked on top of another billboard; or
- (B) Be located closer than twenty-five (25) feet to any lot line or any public right-of-way; or
- (C) Be located closer than five hundred (500) feet from any other billboard on the same side of the roadway; or
- (D) Extend more than twenty (20) feet above the ground or pavement;
- (E) Exceed three hundred (300) square feet in area.

**40-6-11 TEMPORARY SIGNS AND BANNERS.**

(A) **Time Limits.** Temporary signs shall not remain in place for a period of more than thirty (30) days except when the Zoning Administrator extends the time period for an additional thirty (30) days. Any further time extension shall thereafter be applied for through Zoning Board of Appeals and the Board may grant such time extension as seems reasonable and necessary in compliance with this Article. A permit is required for all temporary signs. (See **Sections 40-3-18 and 40-10-29**)

(B) All forms of display banners placed or located at business district establishments shall be considered temporary just like the signs that are located on public sidewalks or right-of-ways. There shall be no more than three (3) banners for any one business and it shall require a special permit from the Zoning Administrator. The permit for the banner shall be subject to the time limit provisions of paragraph (A) of this Section.

**40-6-12 PENALTY.** Any violator of this Article shall be subject to a fine of up to Seven Hundred Fifty Dollars (\$750.00). (Ord. No. 1718; 10-12-21)

## ARTICLE VII - OFF-STREET PARKING AND LOADING

**40-7-1 APPLICABILITY OF ARTICLE.** Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

**40-7-2 EXISTING PARKING/LOADING FACILITIES.**

(A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.

(B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored, but additional parking/loading spaces need not be provided.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, increased floor area, greater seating capacity, etc., additional off-street parking and loading spaces commensurate with such intensification shall be provided.

(D) Whenever the existing use of a structure is changed to a different use, off-street parking or loading facilities shall be provided as required herein for such new use.

**40-7-3 PARKING LOT DESIGN STANDARDS.** All off-street parking lots shall conform to the standards indicated in the subsections which follow:

**NOTE:** Standards applicable to all parking areas are indicated by one asterisk (\*); standards applicable to all parking areas except those accessory to single- or two-family dwellings are indicated by two asterisks (\*\*).

**40-7-3.1 SPACES.**

(A) Every off-street parking space shall be at least ten (10) feet wide and twenty (20) feet long, and shall have at least seven (7) feet of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way. (\*)

(B) Markings shall be laid and restored as often as necessary to clearly delineate each parking space. (\*\*)

**40-7-3.2 INTERIOR AISLES.** Aisles within parking lots shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic shall be at least twenty-two (22) feet wide. One-way aisles designed for sixty degree (60°) parking shall be at least eighteen (18) feet wide. (\*\*)

**40-7-3.3 ACCESS WAYS.**

(A) Parking lots shall be designed so that ingress to or egress from a parking space is from an aisle or driveway, not directly from the public right-of-way. (\*)

(B) No access way to any parking lot shall be located within thirty (30) feet of any corner formed by the intersection of the rights-of-way of two (2) or more streets. At intersections where traffic control devices are installed, the Administrator may increase this requirement as necessary to prevent hazards. (\*)

(C) Parking lot access ways (as well as residential driveways) and public streets shall be aligned to form, as closely as feasible, right angles. (\*)

(D) The access way to every parking lot located in any business district or in the Industrial District shall be at least twenty-four (24) feet wide unless two (2) one-way drives, each twelve (12) feet wide are provided. (\*\*)

(E) The access way to every parking lot located in any residential district or in the Agriculture District shall be at least **ten (10) feet wide**; but if the parking area is longer than **one hundred (100) feet**, access shall be provided either by one two-way drive at least **twenty (20) feet wide** or by two one-way drives, each at least **ten (10) feet wide**.(\*)

**40-7-3.4 SURFACING.** Parking lots shall be graded and improved with a compacted stone base at least **seven (7) inches thick**, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed of an approved dustless surface. (Note: "Oil and chip" is not comparable material.)(\*\*)

**40-7-3.5 LIGHTING.** Any light(s) used to illuminate any parking lot shall be arranged or shielded so as to confine direct light rays within the lot lines of the parking lot to the greatest extent possible and in no case, shall the light(s) shine on or into nearby residences.(\*)

**40-7-3.6 LANDSCAPING.** In order to reduce heat and glare, to minimize blowing of dust and trash, and to reduce the oppressive visual effects of large open parking areas, landscaping shall be provided and maintained within every parking lot that contains **twenty (20) or more** parking spaces. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed of an approved dustless surface.(\*\*)

(A) A landscaping plan (either a separate document or an element of a more inclusive development plan) shall accompany every application for a Certificate of Zoning Compliance to develop any parking lot that will contain **twenty (20) or more** parking spaces.

(B) The landscaping plan shall include the following information:

- (1) Proposed type, amount, size, and spacing of plantings, including trees, shrubbery, and ground cover;
- (2) Proposed size, construction materials, and drainage of landscaped islands; and
- (3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation, and pedestrian movement.

**40-7-4 LOCATION OF PARKING.** All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings:**

- (1) Parking spaces accessory to any dwelling shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any required front yard or required side yard adjacent to a street except in the driveway, but may be located in the side or rear yards.
- (2) Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area; provided that this requirement shall not be applicable to two-family dwellings.

(B) **For Business/Industrial Uses:**

- (1) Every off-street parking space accessory to any business or industrial use shall be located within **five hundred (500) feet** of the use served; provided that no portion of any parking lot for non-residential uses shall extend into any residential district or into the Agriculture District, except by written permission of the Administrator.

(2) In any business district or in the Industrial District, off-street parking facilities for different buildings or uses may be provided collectively; but only if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all other pertinent regulations are observed.

**40-7-5 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES.** All off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size of Space.** Every off-street loading space shall be at least **twelve (12) feet wide and forty-five (45) feet long** exclusive of aisle and maneuver space, and shall have vertical clearance of at least **fourteen (14) feet**. In no case shall a vehicle being loaded or unloaded overhang into the public right of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet wide**.

(C) **Surfacing.** Every off-street loading area shall be improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material. (No "oil and chip")

(D) **Buffer Strips.** No loading space or area for vehicles over **two (2) ton cargo** capacity shall be developed closer than **fifty (50) feet** to the lot line of any lot located in any residential district or in the Agricultural District unless such space/area is completely enclosed by walls, a solid fence, or closely planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from residential property.

(E) **Location.** Every off-street loading space shall be located on the same parcel of land as the use served, and not closer than **fifty (50) feet** to the intersection of the rights-of way of **two (2) or more streets**, and not on any required front yard.

**40-7-6 COMPUTATION OF REQUIRED PARKING/LOADING SPACES.** In computing the number of parking spaces required by this Code, the Zoning Administrator shall apply the following rules:

(A) In computing parking space requirements based the number on of employees, the maximum number of employees on the premises at any period of the day shall be used. "Employee parking" means one (1) parking space shall be required per one and one-half (1.5) employees," unless otherwise stated.

(B) In computing parking or loading space requirements on the basis of building floor area, the **gross** floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **three hundred fifty (350) square feet** of gross area shall be deemed **one (1) parking space**.

(D) If computation of the number of parking or loading spaces required by this Code results in a fractional space, any fraction of **one-half (1/2)** or more shall be counted as **one (1) space**.

(E) No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking or loading spaces shall be counted as part of the off-street parking or loading spaces required for another structure or use.

**40-7-7 NUMBER OF PARKING AND LOADING SPACES REQUIRED.** Off-street parking and loading spaces shall be provided as indicated in tabular form below. For any use that is not listed in the table, the same amount of parking and loading space shall be provided as is required for the most similar listed use. The Zoning Administrator shall make the determination of similarity:

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
<b>(A) <u>Dwellings, Lodgings:</u></b>		
Motels, Boarding houses	1 space per lodging unit, plus employee parking	1 space if the use has 20,000 sq. ft. or more of floor area
Manufactured homes & Immobilized homes	2 spaces per unit	Not Applicable
Multi-family dwellings	3 spaces per dwelling unit	Not Applicable
Single-family & two-family dwellings	2 spaces per dwelling unit	Not Applicable
<b>(B) <u>Educational, Institutional, Recreational:</u></b>		
Churches, assembly halls	1 space per 4 seats in the largest seating area	Not Applicable
Libraries, museums	1 space per 500 sq.ft. of floor area	On review by the Administrator
Nursing homes	1 space per 5 beds plus 1.5 spaces per employee on the major shift.	To 50,000 sq. ft. of floor area...1 space; 50,001-100,000 sq. ft... 2 spaces
<b>Schools</b>		
Elementary and Junior High	1 space for every 20 students that the building is designed to accommodate, plus employee parking.	On review by the Administrator
Senior High	1 space for every 4 students that the building is designed to accommodate plus employee parking.	On review by the Administrator
<b>(C) <u>Commercial, Office, Service:</u></b>		
Note: All commercial and service uses, unless specifically indicated otherwise below.		To 10,000 sq. ft. of floor area...1 space; more than 10,000 sq. ft...1 space plus 2 additional space per 50,000 sq. ft. of floor area in excess of 10,000 sq. ft.

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
<b>Financial Institutions</b>		
Walk-in	1 space per 300 sq. ft of floor area, plus employee parking.	
Drive-in	5 spaces per teller Window	(Both walk-in and drive-in): To 30,000 sq. ft. of floor area ... none required; 30,001 to 100,000 sq. ft.....1 space
Beauty and Barber shops	2 spaces per chair, plus employee parking	Not applicable
Bowling Alleys	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants and taverns	Not applicable, except as required for affiliated uses
Car Wash	3 spaces per wash lane	Not applicable
Furniture and appliance stores	1 space per 600 sq. ft. of floor area	To 25,000 sq. ft. of floor area...2 spaces; more than 25,000 sq. ft. of floor area...2 spaces, plus 1 additional space per 25,000 sq. ft. of floor area in excess of 25,000 sq. ft.
<b>Home Occupations</b>		
	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling	Not applicable
Offices generally, but not medical/dental offices	1 space per 300 sq. ft. of floor area	To 30,000 sq. ft. of floor area...none required. 30,001 - 100,000 sq. ft...1 space
Offices, medical/dental	1 space per 200 sq. ft. of floor area or 3 spaces per professional, whichever is greater	Not applicable
Mortuaries	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room	1 space per 10,000 sq. ft. or more of floor area

<u>Use</u>	<u>Parking Spaces Required</u>	<u>Loading Spaces Required (if any)</u>
Restaurants; Refreshment stands		(Both sit-down and drive-in): 1 space per structure having 10,000 sq. ft. or more floor area
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	
Drive-in	1 space per 25 sq. ft. of floor area	
Service stations	2 spaces per service stall, plus employee parking	Not applicable
Taverns	1 space per 2 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more of floor area
Theaters		Not applicable
Indoor	1 space per 4 seats	
Drive-in	On review by the Administrator	
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area plus: Up to 10,000 sq. ft. of open lot area devoted to sale/display of vehicles... 1 space per 2,500 sq. ft. of open lot area. Above 10,000 sq. ft...4 spaces plus 1 additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	To 25,000 sq. ft. of floor area and open lot area...2 spaces. More than 25,000 sq. ft. of floor area and open lot area...2 spaces, plus 1 additional space per 25,000 sq. ft. in excess of 25,000 sq. ft.

**(D) Industrial:**

Any manufacturing, warehousing, or other industrial use	Employee parking of 1 space per 1.5 employee; plus 1 space per company vehicle, plus 1 visitor space per 25 employees on the major shift	To 20,000 sq. ft. of floor area...1 space; 20,001- 50,000 sq. ft...2 spaces; 50,001-90,000 sq. ft...3 spaces; above 90,000 sq. ft...3 spaces plus 1 additional space per 50,000 sq. ft. of floor area in excess of 90,000 sq. ft.
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## ARTICLE VIII - NONCONFORMITIES

**40-8-1        PURPOSE OF ARTICLE.** The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the creation of nuisances, and/or the lowering of property values. The regulations of this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

**40-8-2        NONCONFORMING LOTS.** If the Zoning Board of Appeals approves a variance for any vacant lot that does not conform to **one (1)** or more of the lot size (area dimensions) requirements of the district in which it is located, that lot may, nonetheless, be developed for any use permitted in that district if such vacant lot:

- (A)        was recorded in the office of the County Recorder of Deeds prior to the effective date of this Code (or pertinent amendment thereto);
- (B)        has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances; and
- (C)        is at least **fifty (50) feet wide.**

**40-8-2.1        TWO OR MORE LOTS IN COMMON OWNERSHIP.** If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth, or area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code.

**40-8-3        NONCONFORMING STRUCTURES.** Any otherwise lawful structure which exists on the effective date of this Code, but which could not be erected under the terms of this Code because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions.

- (A)        **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.
- (B)        **Enlargement, Alterations.** A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity.
- (C)        **Relocation.** A nonconforming structure shall not be moved unless, after relocation, it will conform to all the regulations of the district in which it will be situated.
- (D)        **Reconstruction.** No structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds  **fifty percent (50%)** of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than  **fifty percent (50%)** of the structure's market value at the time of the loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be

determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

As an alternative, the market value may be determined by the Administrator by using the "state equalized assessed value" multiplied by the number three (3).

The provisions of paragraph (D) shall not apply to single-family dwellings.

**40-8-4        NONCONFORMING USES OCCUPYING A STRUCTURE.** If any lawful use

occupying a structure exists on the effective date of this Code, but would not be allowed under the terms of this Code, such use may lawfully continue, subject to the following provisions:

(A)        **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B)        **Enlargement --- Alteration --- Reconstruction---Relocation.** No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed, or relocated unless the use of the structure is changed to a permitted use.

(C)        **Extension of Use.** No non-conforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.

(D)        **Change of Use.** A nonconforming use occupying a structure may be changed to a similar use, to a more restrictive use, or to a conforming use. Such use shall not thereafter be changed to a less restrictive use.

(E)        **Discontinuance of Use.** When a nonconforming use of a structure or of a structure and premises in combination is discontinued for **twenty-four (24) consecutive months**, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

**40-8-5        NONCONFORMING USES OF LAND.** Any lawful use of land existing on the

effective date of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A)        **Intensification or Extension of Use.** A nonconforming use of land shall not be intensified or extended to occupy a greater area of land than was occupied by such use on the effective date of this Code.

(B)        **Relocation.** No nonconforming use of land shall be moved, in whole or in part, unless such use, upon relocation, will conform to all pertinent regulations of the district in which it is proposed to be located.

(C)        **Change of Use.** Whenever a nonconforming use of a building has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or more restricted classification.

(D)        **Discontinuance.** When a nonconforming use of land is discontinued for a period of **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year period**, it shall not thereafter be resumed, and any subsequent use of such land shall conform to the applicable district regulations. Any discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

**40-8-6        NONCONFORMITIES UNDER PERMIT AUTHORITY.** The regulations of

this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to the effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.

## ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

**40-9-1        ZONING ADMINISTRATOR.** The Zoning Administrator is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) To review applications pertaining to land, structures and the uses of land and/or structures;
- (B) To issue or deny certificates of zoning compliance;
- (C) To inspect lots, structures, and uses to determine compliance with this Code, and where there are violations, to initiate appropriate corrective action;
- (D) To review and forward to the Zoning Board of Appeals all appeals and applications for variances, special-use permits, and amendments;
- (E) To maintain up-to-date records of matters related to this Code, including, but not limited to, district maps, certificates of zoning compliance, special-use permits, variances, interpretative decisions of the Zoning Board of Appeals, amendments and all applications/documents related to any of these items;
- (F) To republish the zoning district map not later than **March 31<sup>st</sup>** if any rezonings or annexations have been approved during the preceding calendar year; **(See Section 40-3-3)**
- (G) To provide information to the general public on matters related to this Code; and
- (H) To perform such other duties as the City Council may prescribe from time to time.
- (I) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the City Council at least once each year;
- (J) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary.

**40-9-2        CERTIFICATES OF ZONING COMPLIANCE.** Upon the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated, or reconstructed until a certificate of zoning compliance has been issued. The Administrator shall not issue a certificate of zoning compliance unless, following consultation with technically qualified persons as necessary, he determines that the proposed activity conforms to the applicable provisions of this Code.

**40-9-3        APPLICATION FOR INITIAL CERTIFICATE OF ZONING COMPLIANCE AND PERMIT TO CONSTRUCT.** Upon the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until the applicant for an Initial Certificate of Zoning Compliance and Permit to Construct has obtained such permit pertaining to such work. Every applicant for such permit shall submit to the Zoning Administrator, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Zoning Administrator shall decide which items are applicable. **(NOTE: Fee required.) (Ord. No. 1294; 02-08-00)**

### **ITEMS OF INFORMATION:**

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed lot, structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;

- (D) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height, setbacks, and lot coverage of the proposed structures;
- (I) Number and size of proposed dwelling units, if any;
- (J) Location and number of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing and proposed utilities, whether public or private; and/or
- (L) Location and square footage of existing and proposed signs by type and class.

**40-9-4        DURATION OF CERTIFICATE.** The application for certificates of zoning compliance shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew the application for successive **one (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work. **(Filing Fee Required.)**

**40-9-5        ARCHITECTURE PRACTICE ACT REQUIREMENTS.** The City in compliance with the Illinois Architecture Practice Act of 1989 and effective **January 1, 1992** (225 ILCS 305/1 *et seq.*) requires that all new construction and structural renovations of buildings used by the general public, including multiple housing, but excluding one and two family residences, shall require architectural plans with an architect's seal from a licensed architect.

**40-9-6        FINAL CERTIFICATES OF ZONING COMPLIANCE.** The Zoning Administrator shall not issue a Final Certificate of Zoning Compliance until it has been determined, by inspection, that:

- (A) The development or construction of such lot or structure has been completed in accordance with plans approved at the time the application was issued; and
- (B) The lot or structure as completed, and the proposed use thereof, conforms to all applicable provisions of this Code.

Final Certificates of Zoning Compliance shall be issued free of charge.

**40-9-7        CORRECTIVE ACTION ORDERS.** Whenever the Zoning Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon is in violation of this Chapter, he shall so notify the responsible party, and shall order appropriate corrective action.

**40-9-8        CONTENTS OF ORDER.** The order to take corrective action shall be in writing and shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (F) The date by which an appeal of the corrective action order must be filed, and a statement of the procedure for so filing; and

(G) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

(H) A statement of the penalties attached to any violation of this Code.

**40-9-9** **SERVICE OF ORDER.** A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

(A) Served upon him personally;

(B) Sent by certified mail to his last known address; or

(C) Posted in a conspicuous place on or about the affected premises.

**40-9-10** **STOP ORDERS.** Whenever any work is being done in violation of the Initial Certificate of Zoning Compliance and Permit to Construct, the Administrator's corrective action order may state that the violation be stopped immediately. (The Administrator's stop-work order may be served on any person engaged in or responsible for such work, or may be posted in a conspicuous place on or about the affected premises. Failure to abide by a stop-work order shall be deemed a separate violation of this Code.)

**40-9-11** **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition. The Administrator shall take no such action until he has consulted with the City Attorney.

**40-9-12** **COMPLAINTS.** Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

**40-9-13** **FEES.** The City Council establishes the following schedule of fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the applicant to the City Clerk as follows:

(A)	<b>Fees:</b>	
Single-Family Residence		\$150.00
Multi-Family Residence		\$150.00
Commercial or Business Structure		\$250.00
Industrial Structure		\$300.00
Manufactured home Unit/Immobilized		\$30.00
Accessory Building (larger than 100 sq. ft.)		\$30.00 per building
Structural Additions		\$50.00
Plan Development		\$625.00
Manufactured Home Park Permit		\$625.00
Miscellaneous Permit (i.e. Parking Lot, Deck Driveway, etc.)		\$25.00
Sign Permit		\$25.00

All fees for the above projects that are started prior to obtaining the Zoning Occupancy Permit and/or paying the fees shall be doubled.

(B) **Zoning Board of Appeals Fees:**

Interpretation of Code (Appeal)	\$35.00, plus mailing and publication costs.
Special-use Permit	\$35.00, plus mailing and publication costs.
Variance Permit	\$35.00, plus mailing and publication costs.
Amendments	\$35.00, plus mailing and publication costs.

(Ord. No. 1492; 01-27-09)

[NOTE: Building permit fees, if any, will be found in Chapter 6.]

**40-9-14        PENALTIES.**

(A) Any person who is convicted of a violation of this Code shall be fined not less than **One Hundred Dollars (\$100.00)**, nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs. Each day on which a violation continues shall be considered a separate offense.

(B) Nothing contained in this Section shall prevent the City from taking any other lawful action that may be necessary to secure compliance with this Code.

## ARTICLE X - ADMINISTRATION

## DIVISION I - BOARD OF APPEALS

**40-10-1        ZONING BOARD OF APPEALS.** The Zoning Board of Appeals is hereby established in accordance with Illinois law. (65 ILCS 5/11-13-3)

**40-10-2        MEMBERSHIP, APPOINTMENT, COMPENSATION.** Upon the effective date of this amended Code, the Zoning Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the City. **Three (3) members** shall be appointed for five (5) year terms, **two (2)** shall be appointed for four (4) year terms, and **two (2)** shall be appointed for three (3) year terms. Upon completion of the above stated terms, all members shall serve according to **Section 40-10-3**. Each Board member shall be appointed by the Mayor with the advice and consent of the City Council. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. The Zoning Board shall select **one (1) member** of the Board to be the Vice-Chairman and **one (1)** the Secretary. (Ord. No. 1294; 02-08-00)

**40-10-3        TERM OF OFFICE, ATTENDANCE, VACANCIES.** Every member of the Zoning Board of Appeals, which was established pursuant to the former Zoning Code shall be entitled to serve on the Zoning Board of Appeals established by this Section until the date his term of office expires. Once the staggered terms created by **Section 40-10-2** have run, all members appointed or re-appointed shall serve a term of **five (5) years** from the date of his appointment and until his successor has been selected and qualified.

Attendance of Board members is preferred and the failure to any member to attend a majority of the meetings called, without prior reasonable notice to the Zoning Administrator, shall be deemed to have resigned his appointment subject to the appointment provisions of **Section 40-10-2**.

With the advice and consent of the City Council, the Mayor may remove any member of the Zoning Board of Appeals for cause after a public hearing. Vacancies on the Zoning Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of new members. (Ord. No. 1294; 02-08-00)

**40-10-4        MEETING-QUORUM.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Board may determine. All Board meetings shall be open to the public. The Board may adopt their own rules of meeting procedures consistent with this Code and the applicable Illinois Statutes. The Board may select such officers as it deems necessary. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board shall constitute a quorum, and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Board action. (See **Section 40-10-6**)

**40-10-5        RECORDS.** The Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or decision of the Board shall be filed immediately with the City Clerk and shall be a public record.

**40-10-6        DECISIONS.** The concurring vote of **four (4) members** of the Zoning Board of Appeals shall be necessary to grant a variance or special-use permit or to recommend an amendment to the City Council. The order of the Zoning Board of Appeals shall be by written letter and shall contain its findings of fact. A copy shall be sent to the applicant.

**40-10-7        PERIOD OF VALIDITY.** No decision granting a variance or special-use permit shall be valid for a period longer than **twelve (12) months** from the date of such decision unless (1) an application for a zoning certificate is obtained within such period and construction, moving, remodeling, or reconstruction is started, or (2) an occupancy certificate is obtained and a use is commenced. The Zoning Board of Appeals may grant additional extensions of time not exceeding **one hundred eighty (180) days**, each upon written application made within the initial **twelve (12) month** period without further notice or hearing, but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

**40-10-8        FINALITY OF DECISIONS OF THE BOARD OF APPEALS.** All decisions of the Zoning Board of Appeals, on appeal or upon application for a variation shall, in all instances, be final administrative determination and shall be subject to review by a court in the manner provided by applicable Illinois Statutes. No applicant shall apply for the same or identical request for a period of **one (1) year** unless the facts and/or request have substantially changed.

**40-10-9        OFFICE OF THE SECRETARY OF THE BOARD OF APPEALS.** The Secretary of the Zoning Board of Appeals shall be appointed by the Board to serve until a successor is appointed. The Secretary shall record the minutes of the Zoning Board of Appeals' proceedings and actions, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact. He shall perform such other duties as may be assigned from time to time by the Zoning Board of Appeals.

**40-10-10        JURISDICTION OF BOARD.** The Zoning Board of Appeals has the power to hear and decide appeals, variances and requests for special-use permits pursuant to this Code. It has the power to hear and recommend requests for amendments to this Code.

**40-10-11        RESERVED.**

**[NOTE: Zoning Board discussions cannot be held in a closed session as the Board is a quasi-judicial body.]**

## **DIVISION II - APPEALS**

**40-10-12        NATURE OF AN APPEAL.** Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Zoning Board of Appeals on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law (65 ILCS 5/11-13-12) and the provisions of this Section. (65 ILCS 5/11-13-3(D))

**ED. NOTE: The appeal shall be taken within forty-five (45) days from the action sought to be appealed.**

**40-10-13        FILING, RECORD TRANSMITTAL.** Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Zoning Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall also be filed with the **Soil and Water Conservation District** as per State law. Not more than **five (5) working days** after the notice of appeal has been filed, the Administrator shall transmit to the Zoning Board of Appeals all records pertinent to the case. **(NOTE: Filing fee required.)** (65 ILCS 5/11-13-14) (70 ILCS 405/22.02A)

**40-10-14      STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Zoning Board of Appeals after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Zoning Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Administrator. (65 ILCS 5/11-13-12)

**40-10-15      PUBLIC HEARING, NOTICE.** The Zoning Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A)      By publication in a newspaper of general circulation within this Municipality; and (65 ILCS 5/11-13-12)
- (B)      By first-class mail to all owners of property contiguous to any property affected by the appeal; and
- (C)      By certified mail to the applicant.

**40-10-16      DECISION BY BOARD OF APPEALS.** The Board shall be required to decide all appeals within **thirty (30) days** after the final hearing thereon. A copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Board.

**ED. NOTE:** The Board of Appeals is delegated the task of hearing appeals from the decisions of the Zoning Administrator or other official charged with enforcement of an ordinance passed pursuant to the Zoning Enabling Act. This may, for example, entail determining whether there has been a discontinuance of a nonconforming use. It is important for the applicant to note the appeal process because of the requirement of exhaustion of administrative remedies before suit is filed as well as the more obvious reason of using a less expensive administrative process for correcting a mistake or error which may have been made by the Zoning Administrator. (65 ILCS 5/11-13-2(D))

**40-10-17      RESERVED.**

### DIVISION III - VARIANCES

**40-10-18      VARIANCES.** A variance is a relaxation of the requirements of this Code that are applicable to a particular lot, structure, or use. A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance, it is an amendment, and should be granted only as provided for in Section 40-10-30.

**40-10-19      APPLICATION.** Every application for a variance shall be filed with the Administrator on a prescribed form. Every variance application shall also be filed with the **Soil and Water Conservation District** as per State law. The Administrator shall promptly transmit said application, together with any device he might wish to offer, to the Zoning Board of Appeals. The application shall contain sufficient information to allow the Zoning Board of Appeals to make an informed decision and shall include, at a minimum, the following: **(NOTE: Fee required.)** [70 ILCS 405/22.02(A)]

- (A)      Name and address of the applicant;

- (B) Location of the structure/use for which the variance is sought;
- (C) Brief and/or uses;
- (D) Brief description of the problems/circumstances engendering the variance request;
- (E) Brief, but specific, explanation of the desired variance;
- (F) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a hardship; and description of adjacent lots, structures,
- (G) Any other pertinent information that the Administrator may require.

**[ED. NOTE: The Soil and Water Conservation District shall be given not more than thirty (30) days from the time of receipt of the petition or proposal to issue its written opinion concerning the proposal.] (70 ILCS 405/22.02A)**

**40-10-20      PUBLIC HEARING, NOTICE.** The Zoning Board of Appeals shall hold a public hearing on each variance request within **sixty (60) days** after the variance application is submitted to them. At the hearing any interested party may appear and testify either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed variance shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant and
- (B) By publication in a newspaper of general circulation within the Municipality.
- (C) By first-class mail to all owners of property that is contiguous to the premises of the proposed variance. (65 ILCS 5/11-13-7)

**40-10-21      STANDARDS FOR VARIANCES.** The Zoning Board of Appeals shall not grant any variance unless they find that the proposed variance is consistent with the general purposes of this Code, and that the strict application of the district requirements would result in great practical difficulties or hardship to the applicant. More specifically the Board shall not decide upon a variance unless they determine, based upon the evidence presented to them, that:

- (A) The property in question cannot yield a reasonable return if the district regulations are strictly applied; and
- (B) The plight of the applicant is due to peculiar circumstances not of his own making;
- (C) The variance, if granted, will not be detrimental to the public health, safety, and welfare.
- (D) The peculiar circumstances engendering the variance request are not applicable to other property within the district, and therefore, that a variance would be a more appropriate remedy than an amendment (rezoning); and
- (E) The variance, if granted, will not alter the essential character of the area where the premises in question are located, nor materially frustrate implementation of this Municipality's comprehensive plan. (65 ILCS 5/11-13-4)

**40-10-22      DECISION BY BOARD OF APPEALS.** The Zoning Board shall be required to decide all applications within **thirty (30) days** after the final hearing thereon. A certified copy of the Zoning Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him. He shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Zoning Board. The Zoning Board shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Zoning Board's reasons for granting or denying any requested variance.

**40-10-23      RESERVED.**

## DIVISION IV - SPECIAL USES

**40-10-24      SPECIAL-USE PERMITS.** This Code divides the City into various districts, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation and other factors. Such "special uses" require careful case-by-case review, and may be allowed only after review and approval by the Zoning Board of Appeals.

**40-10-25      APPLICATION.** Every applicant for a special-use permit shall submit to the Zoning Administrator in narrative and/or graphic form, the items of information enumerated below. The Administrator shall promptly transmit the completed application, together with any comments or recommendation he might have, to the Zoning Board of Appeals for further consideration. (NOTE: Fee required in Section 40-9-7)

**ITEMS OF INFORMATION:**

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structure, and its relationship to existing uses of structures on adjacent lots;
- (E) Area and dimensions of the site for the proposed structure or use;
- (F) Existing topography of the site and proposed finished grade;
- (G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (H) Height and setbacks of the proposed structure;
- (I) Number and size of the proposed dwelling units, if any;
- (J) Number and location of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (L) Any other pertinent information that the Administrator may require.
- (M) Location of any signs.

**40-10-26      PUBLIC HEARING, NOTICE.** The Zoning Board of Appeals shall hold a public hearing on every special-use permit application within **sixty (60) days** after the application is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed special-use shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within this Municipality.
- (C) By first-class mail to all owners of property that is contiguous to the premises of the proposed special-use.

(65 ILCS 5/11-13-7)

**40-10-27      SPECIAL USE, FACTORS CONSIDERED.** Within thirty (30) days after the public hearing, the Zoning Board of Appeals shall reach a final decision. In deciding the Zoning Board of Appeals shall consider the following factors:

- (A)      Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;
- (B)      Whether the proposed special use is consistent with this Municipality's comprehensive plan, if any;
- (C)      The effect the proposed special use would have on the value of neighboring property and on this Municipality's overall tax base;
- (D)      The effect the proposed special use would have on public utilities and on the traffic circulation on nearby streets; and
- (E)      Whether there are any facilities near the proposed special use (such as schools or hospitals) that require special protection.

**40-10-28      DECISION - FINDINGS OF FACTS.** The Zoning Board of Appeals shall reach a decision on every special-use permit application within a reasonable time after public hearing. In accordance with State Law, the Zoning Board of Appeals shall specify the terms and conditions of the permit to be granted (if any) in one statement, and their findings of fact in another statement. The findings of fact shall be responsive in the decision-making factors listed in the preceding section and shall clearly indicate the Zoning Board of Appeals' reasons for granting, with or without modifications and/or conditions, or denying the requested special-use permit. (65 ILCS 5/11-31-11)

**40-10-29      TEMPORARY USE PERMITS: PROCEDURE FOR.** As set forth at **Section 40-3-18**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The Zoning Board of Appeals shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

## DIVISION V - AMENDMENTS

**40-10-30      AMENDMENTS.** The City Council may amend this Code in accordance with State law and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the City Council, the Zoning Board, the Plan Commission, the Zoning Administrator or any party in interest. (65 ILCS 5/11-13-14)

**40-10-31      FILING.** Every proposal to amend this Code shall be filed with the Zoning Administrator on a prescribed form. Every amendment proposal shall also be filed with the **Soil and Water Conservation District** as per State law. The Administrator shall promptly transmit said proposal, together with any comments or recommendations he might wish to make to the Board of Appeals for a public hearing. (NOTE: Fee required.)

**[ED. NOTE: The Soil and Water Conservation District shall be given not more than thirty (30) days from the time of receipt of the petition or proposal to issue its written opinion concerning the proposal.]** (70 ILCS 405/22.02A)

**40-10-32      PUBLIC HEARING - NOTICE.** The Board of Appeals shall hold a public hearing on every amendment proposal within **sixty (60) days** after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the

hearing and the nature of the proposed amendment shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:

- (A) By certified mail to the applicant; and,
- (B) By publication in a newspaper of general circulation within the Municipality.
- (C) By first-class mail to all owners of property that is contiguous to the premises of the proposed amendment variance.

(65 ILCS 5/11-13-7)

**40-10-33 ADVISORY REPORT - FINDINGS OF FACT.** Within thirty (30) days after the public hearing, the Board of Appeals shall submit their advisory report to the City Council. The report shall state the recommendations of the Board of Appeals regarding adoption of the proposed amendment and their reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

- (A) Existing use and zoning of the property in question;
- (B) Existing uses and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted under existing regulations;
- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially zoned or last rezoned.

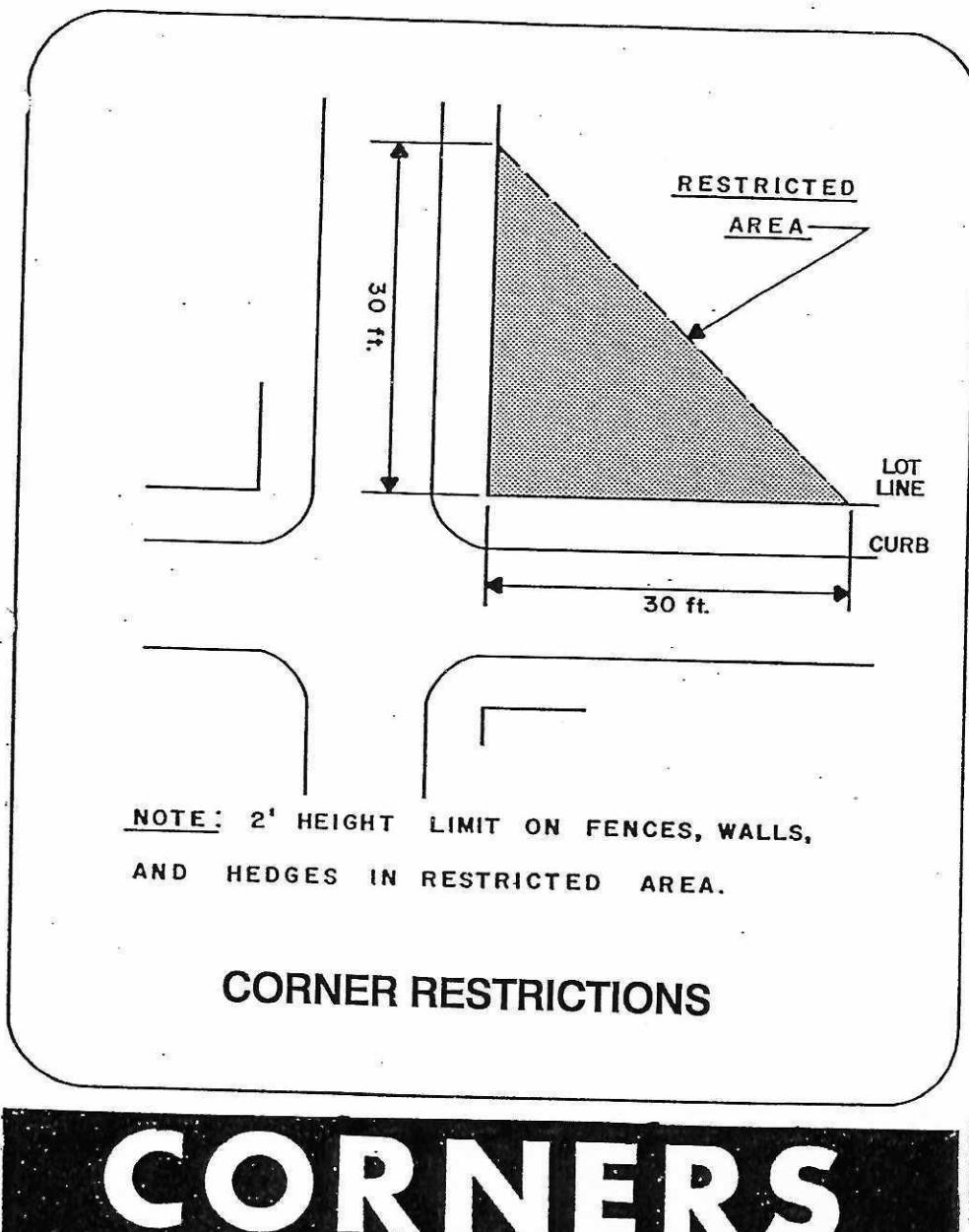
**40-10-34 ACTION BY CITY COUNCIL.** The City Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the advisory report of the Zoning Board of Appeals. Without further public hearing, the City Council may approve or disapprove any proposed amendment or may refer it back to the Board of Appeals for further consideration by simple majority vote of all the members then holding office.

**40-10-35 WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED.** The favorable vote of at least two-thirds (2/3) of the members of the City Council is required to pass an amendment to this Code in each of the following instances:

- (A) When passage would be contrary to the recommendation of the Board of Appeals.
- (B) When the amendment is opposed, in writing, by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered.

**40-10-36 NOTICE TO APPLICANT OF WRITTEN PROTEST.** In cases of written opposition to an amendment of this Code as prescribed in Section 40-10-35, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment. (65 ILCS 5/11-13-14)

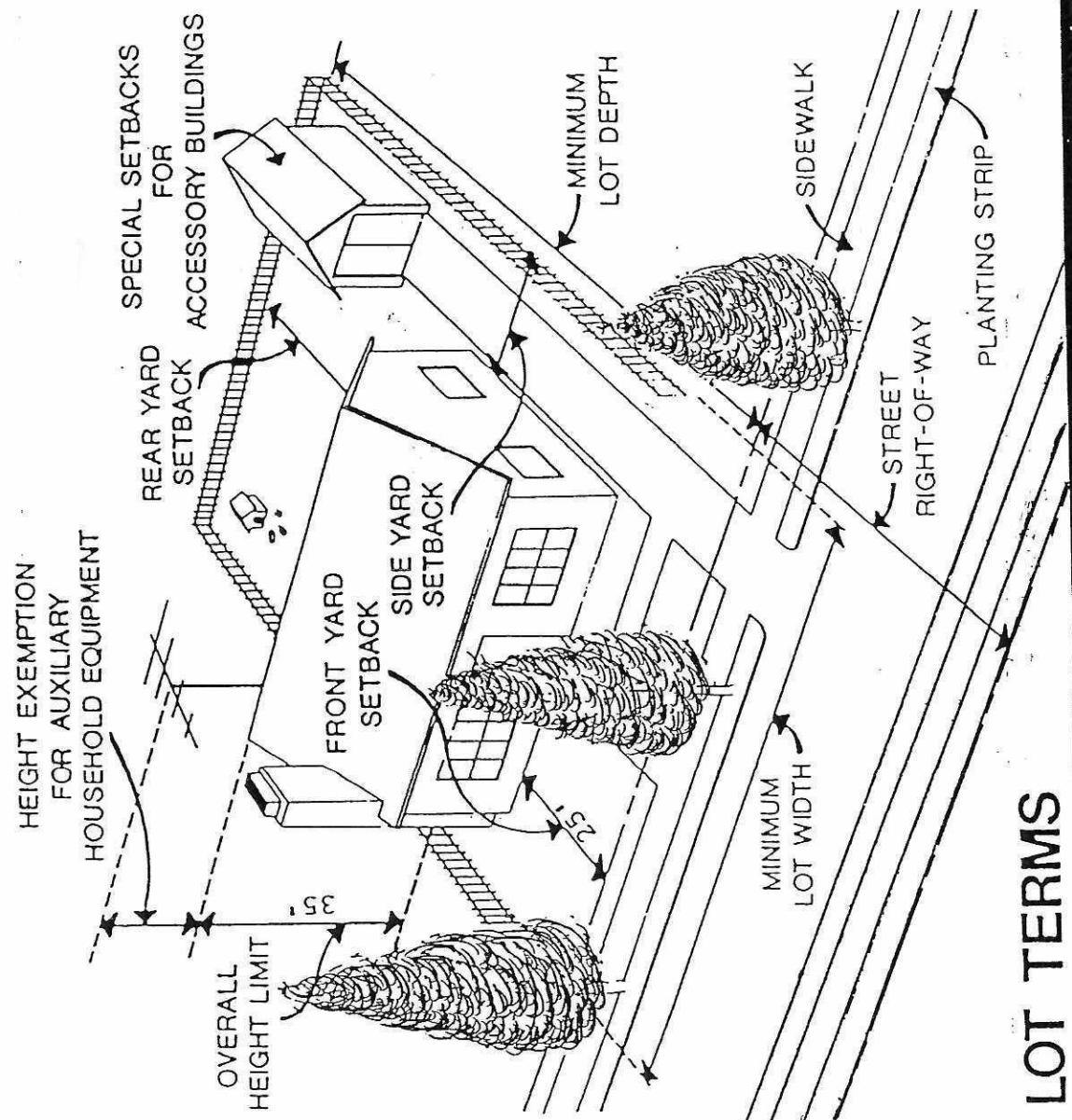
FIGURE 1



# CORNERS

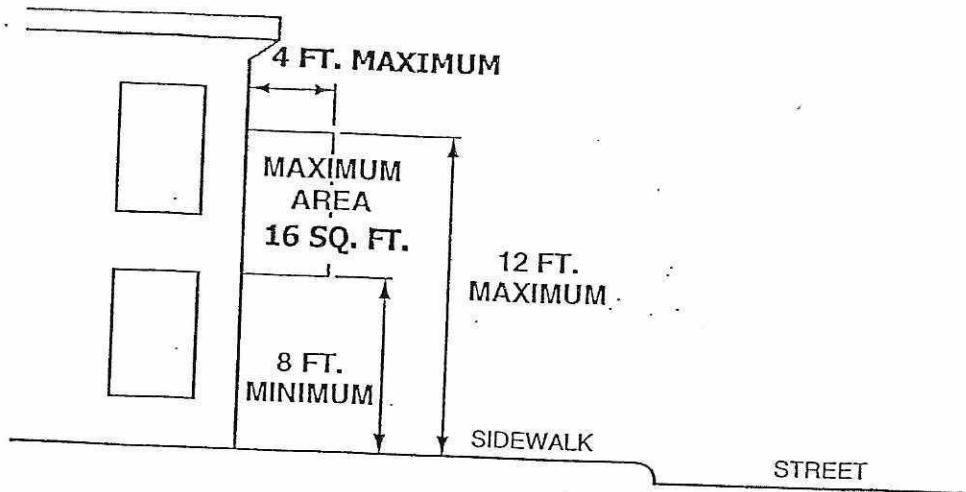
**40-3-13**

FIGURE 2



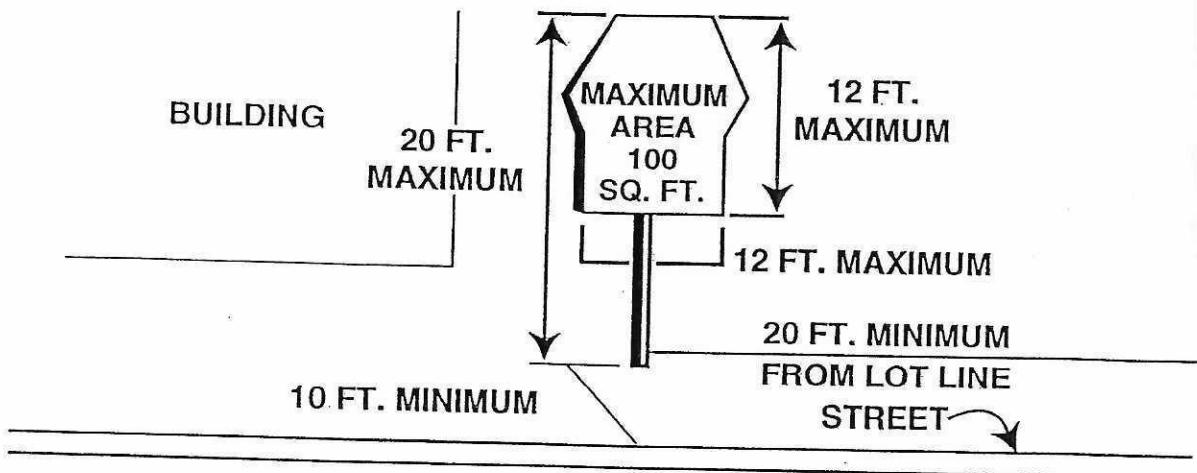
## APPENDIX SELECTED ILLUSTRATIONS

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SEE SECTION 40-6-1

### B FREE STANDING SIGNS



### C SIGN AREA

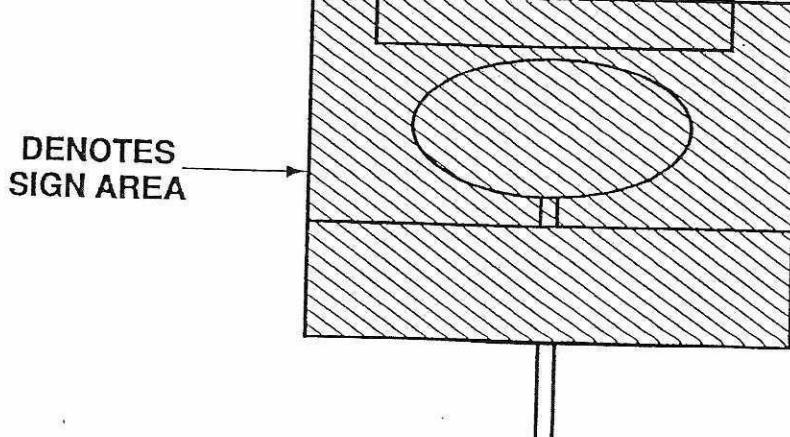
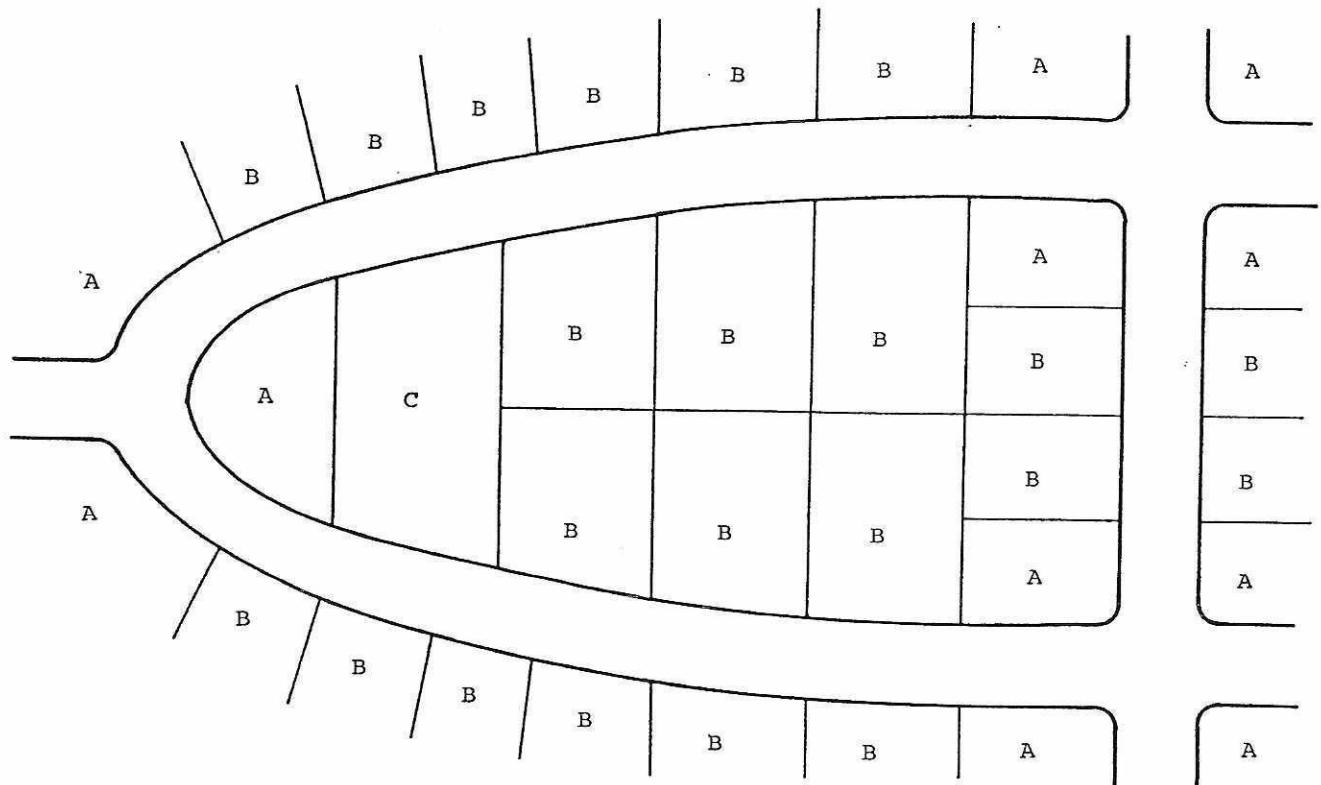


FIGURE 3

FIGURE 4



A - CORNER LOT

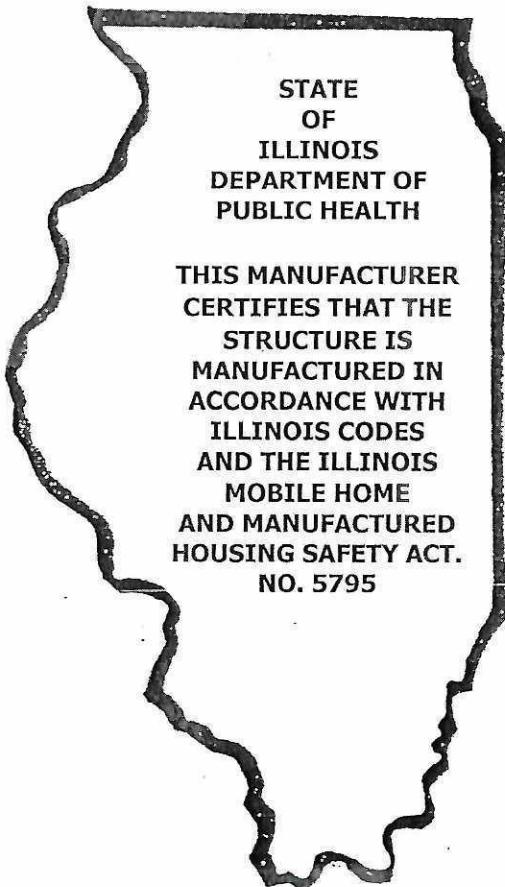
B - INTERIOR LOT

C - THROUGH LOT

**LOTS, CORNER**

# MODULAR AND MANUFACTURED HOME IDENTIFICATION SEALS

**Illinois Modular Seal  
Affixed to Electrical  
Panel Box on all  
Modular Homes**



**HUD Manufactured Home Seal  
Affixed to the tail  
Light end of manufactured  
Home.**

AS EVIDENCED BY THIS LABEL NO. \_\_\_\_\_  
THE MANUFACTURER CERTIFIES TO THE BEST OF THE  
MANUFACTURER'S KNOWLEDGE AND BELIEF THAT THIS  
MANUFACTURED HOME HAS BEEN INSPECTED IN  
ACCORDANCE WITH THE REQUIREMENTS OF THE  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND IS CONSTRUCTED IN CONFORMANCE WITH THE  
FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY  
STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE.  
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