

CHAPTER 40

ZONING CODE

ARTICLE I

GENERAL PROVISIONS

40-1-1 **PURPOSE.** In accordance with State law (**65 ILCS Sec. 5/11-13-1 et seq.**), this Code regulates structures and land uses in order to preserve, protect, and promote the public health, safety, and welfare through implementation of this Municipality's comprehensive plan. 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 protect and enhance the character and stability of sound existing residential, commercial, and industrial areas, and to gradually eliminate nonconforming uses and structures;

(C) to conserve and increase the value of taxable property throughout this Municipality;

(D) to ensure the provision of adequate light, air, and privacy for the occupants of all buildings;

(E) to protect property from damage caused by fire, flooding, poorly controlled storm water runoff, and adverse soil and topographical conditions;

(F) 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;

(G) to guide the provision of water mains, sanitary sewers, storm water sewers, and other utilities and services, and to reduce the initial costs and future maintenance expenses thereof;

(H) to provide for the efficient administration and fair enforcement of all the regulations set forth herein; and

(I) to clearly and concisely explain the procedures for obtaining variances, special use permits, amendments, and the like.

40-1-2 **JURISDICTION.** This Code shall be applicable within the corporate limits of this Municipality and within all territory located within **one and one-half (1.5) miles** of said limits, provided such territory is not located within the zoning jurisdiction of another municipality. (See **65 ILCS Sec. 5/11-13-1**)

40-1-3 **INTERPRETATION, CONFLICT WITH OTHER ORDINANCES.** Every provision of this Code shall be construed liberally in favor of this Municipality, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-4 **DISCLAIMER OF LIABILITY.**
(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent, or employee of this Municipality 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,**" **745 ILCS Sec. 10/1-101**)

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

40-1-5 **SEPARABILITY.** 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.

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 the singular.

(E) The term "shall" is mandatory; the term "may" is discretionary.

(F) The term "this municipality" shall mean the Village of Bethany, Illinois.

(G) The words "lot", "parcel", "tract", and "site" shall be synonymous. (See definition of "plot".)

(H) The words "extend", "enlarge", and "expand" shall be synonymous. (See definition of "enlarge".)

(I) The words "abutting", "adjacent", and "contiguous" shall be synonymous. (See definition of "abutting".)

(J) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.

(K) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(L) 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": Having a common lot line or district line.

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

"ACCESSORY USE": Any structure of 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 or the principal structure or use served; and
- (C) located on the same lot as the principal structure or use served.

"ADMINISTRATOR": The official appointed by the Mayor of this Municipality with the advice and consent of Board of Trustees to administer this Code, or his representative. (Synonymous with "Zoning Administrator".)

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

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

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

"ALTER": To change the size, shape, or use of a structure.

"AMENDMENT": A change in the provisions of this Code (including those portions incorporated by reference), properly effected in accordance with State law and the procedures set forth herein.

"ANCHOR": Any approved device to which a mobile home is tied down to keep it firmly attached to the stand on which it is placed.

"ASPHALTIC CONCRETE": A mixture of petroleum by-products and gravel used for paving to form a smooth, permanent surface. "Asphaltic concrete" does not mean "oil and chip".

“ATTACHED”: As applied to buildings, “attached” means having a common wall and/or a common roof.

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

"BLOCK": An area of land entirely bounded by streets, highways, barriers, or ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless 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": The Board of Zoning Appeals of this Municipality.

"BOARDING HOUSE": A residential building or portion thereof--other than a motel or hotel--containing lodging rooms for accommodation of **three (3) to ten (10) persons** who are not members of the keeper's family, and where lodging or meals or both are provided by prearrangement and for definite periods, but not on an overnight or per-meal basis to the transient public.

"BUFFER STRIP": 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": Any covered structure permanently affixed to land and designed or used to shelter persons or chattels.

"BUILDING HEIGHT": 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 mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs. Chimneys, towers, cooling towers, and similar projections (other than signs) shall not be included in calculating building height.

"BUILDING LINE": 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.

"BULK": 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":

- (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, INITIAL": A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code and may, therefore, proceed.

"CERTIFICATE OF ZONING COMPLIANCE, FINAL": A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

"CLINIC": An establishment wherein licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

"CLUB/LODGE": A nonprofit 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 USE/ESTABLISHMENT": Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

"COMPREHENSIVE PLAN": The plan or any portion thereof adopted by this Municipality to guide and coordinate the physical and economic development of the community. The comprehensive plan includes, but is not limited to, plans and programs regarding the location, character, and extent of highways; bridges; public buildings or uses; utilities; schools; residential, commercial or industrial land uses; parks; drainage facilities; etc.

"CONFORMING": In compliance with the applicable provisions of this Code.

"CONVENIENCE SHOP": Any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multiple-family complex, mobile home park, or similar development.

"CORRECTIVE ACTION ORDER": A legally binding order issued by the Administrator in accordance with the procedures set forth herein to effect compliance with this Code.

"DAY CARE CENTER": See "Nursery School".

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

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

"DIMENSIONS": Refers to both lot depth and lot width.

"DISTRICT, ZONING": A portion of the territory of this Municipality wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of this Code.

"DRIVEWAY": 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.

"DRIVE-IN THEATER": A tract of land developed with facilities for projecting motion pictures on an outdoor screen for viewing from the patrons' automobiles parked on the premises.

"DWELLING": 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": A building or portion thereof containing **three (3)** or more dwelling units.

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

"DWELLING, TWO-FAMILY": A dwelling containing **two (2)** dwelling units.

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

"EASEMENT": A right to use another person's real property for certain limited purposes.

"ENCLOSED": As applied to a building, "enclosed" 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": 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": To build, construct.

"ESTABLISHMENTS": Either of the following:

(A) an institutional, business, commercial or industrial activity that is the sole occupant of one 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 within 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 entryway that has direct access to the exterior of the building.

"EXISTING": Actually constructed or in operation on the effective date of this Code.

"FAMILY": **One (1) person**, or **two (2)** or more persons related by blood, marriage, or legal adoption, or not more than **three (3) unrelated persons**, maintaining a common household in a dwelling unit.

"FLOOD ELEVATION, REGULATORY": The elevation of the most severe flood that, on the basis of Corps of Engineer's data, may be expected to occur once every **one hundred (100) years**.

"FLOOD PLAIN AREA": The area adjacent to a water course and its tributaries having an elevation equal to or lower than the regulatory flood elevation. Tracts of land less than **ten (10) acres** in area that, naturally or by landfill, have an elevation higher than the regulatory flood elevation shall be included in the flood plain area if they are surrounded by land in the flood plain area.

"FLOOD AREA, GROSS": 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.

"FRONTAGE": The lineal extent of the front (street-side) of a lot.

"GREENHOUSE": See "Nursery".

"HEREAFTER": Any time after the effective date of this Code.

"HOME OCCUPATION": 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": 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 Code includes sanitariums but excludes institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, and convalescent/nursing homes.

"INTENSIFY": To increase the level or degree of.

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

"JUNK YARD": 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, plastics, rags, and rubber tires. A lot on which **three (3) or more** inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard.

"KENNEL": Any structure or premises or portion thereof on which more than **three (3)** dogs, cats, or other household domestic animals over **four (4) months** of age are kept.

"LOADING SPACE": An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

"LOT": 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 a record".

"LOT, CORNER": 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": 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": The area of a horizontal plane bounded by the front, side, and rear lines of a lot.

"LOT COVERAGE": The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

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

"LOT LINE, FRONT": The lot boundary abutting the street.

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

"LOT LINE, SIDE": Any boundary of a lot which is not a front lot line or a rear lot line.

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

"LOT WIDTH": The mean horizontal width of a lot measured at right angles to the side lot lines.

"MAINTENANCE": 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.

"MATERIALLY": As applied to the impact of one thing on another, "materially" means significantly or substantially.

"MANUFACTURED OR PREFABRICATED HOUSING": A partially constructed factory fabricated building unit which will be substantially assembled on-site, utilizing pre-manufactured component parts. This term shall not be construed to include "mobile homes", "immobilized mobile homes" or "modular homes".

"MOBILE HOME": A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. A mobile home should not be confused with a camping trailer or recreational vehicle.

"MOBILE HOME; IMMOBILIZED": Any mobile home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The Village Board establishes the following criteria to complete the immobilization of a mobile 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 mobile home.

(C) To complete the immobilization, wheels, tongue, and hitch must be removed. Axles may be removed.

"MOBILE HOME PARK": A parcel of not less than **two (2) acres** in area in single ownership/control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of this Chapter and **Chapter 23** of the "Revised Code of Ordinances".

"MOBILE HOME SPACE": A portion of a mobile home park designed and improved for the placement of one mobile home and the private use of the occupants thereof. (See "Revised Code", Chapter 23)

"MOBILE HOME STAND": The part of a mobile home space beneath the mobile home that includes the concrete slab on which the home is placed and to which it is anchored.

"MOBILE OR PORTABLE MARQUEE": 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 HOME": A substantially constructed factory fabricated building unit transported to a building site, mounted on a permanent foundation and designed for residential use as a "single-family dwelling" unit. "Modular home" shall not be construed to include "mobile homes", "immobilized mobile homes", "manufactured housing" or "prefabricated housing".

"NONCONFORMING": As applies to a lot, structure, or use, "nonconforming" means:

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

"NUISANCE": Any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

"NURSERY": A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

"NURSERY SCHOOL": 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 school age.

"NURSING HOME": A building used as a medical care facility for persons who need long-term nursing care and medical service, but do not require intensive hospital care.

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

"OVERLAY DISTRICT": A zoning district superimposed over one 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, etc.

"PARKING AREA/LOT, OFF-STREET": 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 area", depending on the circumstances of its use, may be either a principal use or an accessory use.

"PARKING SPACE, OFF-STREET": 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": Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

"PERSON": Any individual, firm, association, organization, or corporate body.

"PLANNED UNIT DEVELOPMENT": A tract of land which is planned as a whole for development under single ownership or control in accordance with the Planned Unit Development Code, and which, by virtue of such unified planning and development, provides greater amenities, convenience or other benefits (especially open space) than would normally be had through the development of diverse smaller tracts under multiple ownership. A "planned unit development" may contain one type of use or a variety of uses.

"PLANNING COMMISSION": The Planning Commission of this Municipality.

"PLOT": A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

"PREMISES": A lot and all the structures and uses thereon.

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

"PROPERTY LINE": See "Lot Line".

"RECONSTRUCT": As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.

"RECREATIONAL VEHICLE": A term encompassing any type of vehicle used primarily for pleasure such as travel trailers, motor homes, boats, snowmobiles, etc.

"REFUSE": Garbage (food wastes) and trash, but not sewage or industrial wastes.

"RELOCATE": To move to another portion of a lot or to a different lot.

"REPAIR": To restore to sound condition, but not to reconstruct.

"RESTRICTIVE": 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": A strip of land which the owner/subdivider has dedicated to this Municipality or to another unit of government for streets and alleys.

"ROOMING HOUSE": See "Boarding House".

"SANITARIUM": See "Hospital".

"SCREENING": Trees, shrubs, walls, solid fences, etc. used as a means of visual and noise control.

"SERVICE STATION": 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 filling station may include facilities for washing vehicles and for making minor automotive repairs.

"SERVICE USE/ESTABLISHMENT": Any use or establishment wherein services are provided for remuneration either to individuals or to other firms.

"SETBACK": The minimum horizontal distance between a street line and:
(A) the nearest wall of a building or side of a structure facing such street line,
and
(B) the edge of the area of operation of a principal use involving no building or structure.

"SETBACK LINE": See "Building Line".

"SKIRTING": The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

"SPECIAL USE": 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": A permit issued in accordance with the provisions of this Code to regulate development of a special use.

"STABLE": A structure, situated on the same lot as a dwelling, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

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

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

"STREET, PRIVATE": Any street providing access to abutting property that is not maintained by and dedicated to this Municipality or other public entity.

"STRINGENT": Binding, exacting.

"STRUCTURE": 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.

"STRUCTURE, TEMPORARY": Any structure that is not attached to a permanent foundation.

"TEMPORARY USE PERMIT": A permit issued in accordance with the provisions of this Code and valid for not more than **one (1) year**, which allows the occupation of a temporary structure or the operation of a temporary enterprise.

"TOPOGRAPHY": The relief features or surface configuration of an area.

"TRAVEL TRAILER": A mobile structure designed for temporary occupancy.

"TRAVEL TRAILER PARK": A lot developed with facilities for accommodating temporarily occupied travel trailers in accordance with the requirements of the Mobile Home Code, if any.

"USE": The purpose or activity for which land or a structure thereon is designed, arranged, intended, occupied, or maintained.

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

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

"VARIANCE": 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.

"YARD": 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": A yard which is bounded by the side lot lines, front lot lines, and the building line.

"YARD, REAR": A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

"YARD, SIDE": A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

"YARD LINE": A line in a lot that is 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 MAP": The map(s) and any amendments thereto designating zoning districts, and incorporated into this Code by reference.

ARTICLE III

GENERAL ZONING REGULATIONS

40-3-1 **ESTABLISHMENT OF DISTRICTS.** In order to implement the regulatory scheme of this Code so as to achieve the objectives enumerated at **Section 40-1-1**, this entire Municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>
Residential	R-1
Commercial	C-1
Light Industrial	I-1
Heavy Industrial	I-2

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 this Municipality. This official map, including all notations and other information thereon, 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 (**See 65 ILCS Sec. 5/11-13-19**), the Administrator shall publish the zoning map of this Municipality not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations.

40-3-4 **DETERMINING TERRITORY OF DISTRICTS WITH PRECISION.** In determining with precision what territory is actually included within any zoning district, the Zoning 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 lines, quarter section lines, quarter-quarter section lines, 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.

(C) The regulatory flood elevation at any point in question shall determine where the flood plain overlay district boundary is located on the land.

40-3-5 **ANNEXED TERRITORY.** Upon the effective date of this Code, whenever any territory is annexed to this Municipality, the Board of Trustees shall determine its district classification at the time of annexation.

40-3-6 **GENERAL PROHIBITION.** No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated, or reconstructed except in conformity with the provisions of this Code. Similarly, no lot or part thereof shall be used, occupied, or developed 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 Board of Trustees, following consultation with the Zoning Administrator and the Plan Commission, finds that the unlisted use is similar to and compatible with the listed uses, they may allow such use by amending this Code in accordance with **Section 40-9-3**. The Board of Trustees' decision 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 **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 any 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 40-9-2**)

40-3-9 **MEETING MINIMUM REQUIREMENTS.** Except as specifically provided otherwise elsewhere in this Code, every lot must meet the minimum area, minimum dimensions, and minimum setbacks requirements of the district in which it is located independently; that is, without counting any portion of an abutting lot.

40-3-10 **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 a private street that conforms to the standards set forth in the Subdivision Code of this Municipality. (See Chapter 34)

40-3-11 **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.

40-3-12 **FRONT SETBACKS IN CERTAIN BUILT-UP AREAS.** Except as specifically provided otherwise, in all residential zoning districts and in the Commercial District, where lots having **fifty percent (50%)** or more of the frontage on one 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 setbacks on that block shall be the average of the existing front setbacks; provided however, that in any built-up area, no front setback less than **fifteen (15) feet** shall be permitted, nor shall any front setback greater than **fifty (50) feet** be required.

40-3-13 **INTRUSIONS INTO YARDS.** To the extent indicated below, the following feature of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<u>FEATURE</u>	<u>MAXIMUM INTRUSION</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	None
(D) Porches, if unenclosed and at ground level	Six (6) feet.
(E) Balconies	Four (4) feet.
(F) Canopies, roof overhangs	Four (4) feet.

40-3-14 **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 this Municipality.

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

40-3-15 **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 municipal or public sanitary sewerage system is reasonably available, all sewage shall be discharged into such system, whether or not a private sewerage system already exists or is more convenient.

(B) Whenever the municipal or public sewerage system is not reasonably available, 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, **Illinois Compiled Statutes, Chapter 225, Section 225/1 through 225/23**, as now or hereafter amended; and
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the Illinois Department of Public Health, as now or hereafter amended; and
- (3) pertinent, current regulations issued by the Illinois Environmental Protection Agency; and
- (4) applicable codes and ordinances of this Municipality, particularly the Subdivision Code.

The Administrator shall not issue any initial certificate of zoning compliance unless, following consultation with the Municipal Engineer, he is satisfied that these requirements will be met. **(See Chapter 38)**

40-3-16 **ACCESSORY USES.** “Accessory use” means any structure or use which 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 (whether individuals or a commercial enterprise) of the principal structure or use served; and
- (C) located on the same lot as the principal structure or use served.

If an accessory use is attached to the principal structure, it shall be considered part of such principal structure.

40-3-17 **PERMITTED ACCESSORY USES.** Any accessory use shall be deemed permitted in a particular zoning district if such accessory use is:

- (A) accessory to a principal structure or use that is allowed in that zoning district as of right (permitted uses) or by virtue of the fact that a special use permit has been granted; and
- (B) in compliance with the restrictions set forth in **Section 40-3-18.**

40-3-18 **ACCESSORY USE RESTRICTIONS.**

- (A) **Height.** No accessory use shall be higher than:
 - (1) **fifteen (15) feet** in any residential district; or
 - (2) **twenty-five (25) feet** in any other zoning district.
- (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 any residential district, an accessory use may be located as close as **five (5) feet** to the side lot line and/or as close as **eight (8) feet** to the rear lot line.
- (C) **Yard Coverage.** In any residential district, 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 dwelling is strictly prohibited throughout the zoning jurisdiction of this Municipality.

ARTICLE IV

SPECIFIC DISTRICTS

DIVISION I - RESIDENTIAL

40-4-1 **PURPOSE.** In the Residential District, land is principally used for, or is best suited for, detached single-family dwellings and related educational, religious, and recreational facilities. The regulations applicable to each single-family residence district are intended to stabilize and preserve sound existing neighborhoods developed at varying densities. The differing regulations are also intended to promote the development of a range of new single-family housing that is appropriate for persons having different social needs and income levels.

40-4-2 **ONE PRINCIPAL BUILDING ON ONE LOT.** Only one principal building (which includes a mobile home) shall be erected on any lot in this district.

40-4-3 **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in this district shall conform to the applicable requirements indicated in tabular form below:

<u>REQUIREMENTS</u>	<u>R-1 DISTRICT</u>
(A) <u>Minimum Lot Area.</u>	10,000 sq. ft.
(B) <u>Minimum Lot Width.</u> (at established building line)	75 ft.
(C) <u>Minimum Lot Depth.</u>	100 ft.
(D) <u>Minimum Setbacks.</u>	
(1) From front lot line	25 ft.
(2) Side yards	
Minimum total setback from both side lot lines	15 ft.
Minimum setback from either side lot line	5 ft.
(3) From rear lot line	20 ft.
(E) <u>Maximum Building Height.</u>	35 ft.

40-4-4 PERMITTED USES.

Churches and other places of formal worship.

Detached single-family dwellings.

Government uses.

Libraries.

Parks, playgrounds.

Schools, public or private, elementary or secondary. (See Section 40-5-9)

Accessory uses in accordance with Section 40-3-16 to 40-3-18.

40-4-5 SPECIAL USES. The following are permitted through the granting of a special-use permit.

Cemeteries.

Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.

Day care centers, nursery schools. (See Sec. 40-5-9)

Golf courses, regulation size.

Home occupations. (See Sec. 40-5-4)

Hospitals, nursing homes, sanitariums. (See Sec. 40-5-5)

Medical and dental offices and clinics.

Mobile homes.

Mobile home parks (but not travel trailer parks) in conformity with the requirements of the Mobile Home Park Code.

Planned unit developments in conformity with the requirements of this Code.

Two-family dwellings.

Utility substations. (See Section 40-5-12)

40-4-6 - 40-4-9 RESERVED.

DIVISION II - "C-1" COMMERCIAL

40-4-10 **PURPOSES.** The B-1 Central Business District encompasses the concentrated pedestrian-oriented commercial area of this Municipality. Stores and other facilities providing a wide range of retail goods and services to the general public may be located within this district. This district shall also encompass neighborhoods of multi-family dwellings built either at low, medium or high density.

40-4-11 **USE RESTRICTIONS.**

(A) **Retail Only.** Every commercial or service establishment located in this district shall deal directly with consumers.

(B) **Processing Incidental.** Any processing or treatment of goods on any premises must be clearly incidental to the retail business conducted on such premises.

(C) **Unenclosed Activities -- Special Use Permit.** In this district, a special use permit is required to conduct any commercial, service, or storage activities outside a completely enclosed building.

(D) **Drive-Ins -- Special Use Permit.** In this district, a special use permit is required to establish any business that will offer goods or services directly to customers waiting in parked motor vehicles, or that will sell food or beverages for consumption on the premises in parked motor vehicles.

(E) **Refuse Containers.** All refuse generated by any establishment located within this district shall be stored in tightly-covered containers placed in a visually-screened area.

(F) **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 installed.

(G) **Parking.** See **Article VI.**

(H) **Signs.** See the Sign Control Code. (**Chapter 32**)

40-4-12 **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "C-1" Central Business District shall conform to the requirements indicated below:

- | | | |
|-----|----------------------------------|---|
| (A) | <u>Minimum Lot Area.</u> | None |
| (B) | <u>Minimum Lot Width.</u> | Thirty (30) feet at the established building line. |
| (C) | <u>Minimum Lot Depth.</u> | None |

Government uses of this Municipality.

Home occupations.

Libraries, museums.

Hospitals, nursing homes.

Mass transit facilities.

Multi-family dwellings.

Offices.

Parks, playgrounds.

Service establishments, except those listed in **Section 40-4-14**.

Schools.

Accessory uses in accordance with **Section 40-3-16** et seq.

40-4-14 **SPECIAL USES.** Provided all the use restrictions of this district (See Sec. 40-4-11) are observed, the following uses may be allowed by special use permit:

Any use that involves commercial, service, or storage activities conducted outside completely enclosed buildings.

Boarding houses, rooming houses.

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.

Medical/dental clinics. (See Sec. 40-5-5)

Utility substations. (See Sec. 40-5-12)

40-4-15 - 40-4-20 **RESERVED.**

DIVISION III - "I-1" LIGHT INDUSTRIAL DISTRICT

40-4-21 **PURPOSE.** The "I-1" Light Industrial District delineates areas where a satisfactory correlation of factors such as adequate transportation facilities, accessibility for employees, efficient land assembly, adequate topographical characteristics and adequate availability of utilities required by industry may be achieved. It is intended that this district will provide for industrial land uses of an assembly nature, research and development, or manufacture and fabrication of any commodity from semi-finished or finished materials. It is further intended to insure the Village will achieve a favorable position with respect to regional and national competition in manufacturing.

40-4-22 **CONDITIONS OF USE.**

(A) Any production, processing, cleaning, servicing, testing, repair, or storage of goods, materials, or products shall take place without creating disturbing influences to the use and occupancy of adjoining properties.

(B) All business, production, servicing, and processing shall take place within completely enclosed buildings unless otherwise approved. Storage of equipment and supplies in this district may be open to the sky but shall be enclosed by a wall or fence, including gates, at least **eight (8) feet** high and if abutting a "R" or "C" District an approved landscaped screen shall be provided. Open off-street loading facilities and open, off-street parking facilities for the storage of motor vehicles may be unenclosed throughout the district, except for such screening of parking and loading facilities as may be required to protect adjacent uses or residential districts.

(C) **Railroad Siding Frontage.** No yards shall be required for those portions of lots which front on railroad sidings.

(D) **Buffer Areas.** A **twenty- (20) foot** wide planting screen, consisting of suitable shrubbery and trees, shall be planted wherever an industrial use abuts any other use district. Such screen shall consist of shrubbery and trees at least **five (5) feet** in height when planted and shall be maintained at not less than **twenty (20) feet** in height when full grown or as reviewed by the Manager and approved by the Zoning Board.

(E) **Yard Areas.** No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such buildings.

(F) **Front Yard.** On every zoning lot a front yard of not less than **seventy-five (75) feet** in depth shall be provided.

(G) **Side Yard.** On every zoning lot a side yard shall be provided along each side lot line. Each side yard shall be no less in width than **twenty-five (25) feet**.

(H) **Rear Yard.** A rear yard of at least **twenty (20) feet** in depth shall be provided.

(I) **Maximum Height of Principal Structures.** The maximum height of all principal structures in this District shall be **forty-five (45) feet**.

(J) **Lot Coverage.** Not more than **forty percent (40%)** of the area of a lot may be covered by buildings and structures, including accessory buildings.

40-4-23 PERMITTED USES.

Research and development on any commodity except explosives or flammable gases or liquids and further provided that adequate safeguards shall be provided to protect adjoining properties from the effects of noisome or injurious substances, conditions and operations.

Manufacture and fabrication of any commodity from semi-finished materials as follows, except explosives or flammable gases or liquids and processing of raw materials.

Automobiles and aircrafts.

Apparel and other products manufactured from textiles.

Brushes and brooms.

Cameras and other photographic equipment and supplies.

Ceramic products such as pottery.

Cleaning and dry cleaning establishments.

Canning and preserving.

Creameries and dairies.

Dental equipment and supplies.

Drugs.

Electrical appliances, such as lighting fixtures, irons, fans.

Electrical equipment assembly, such as radio, television, and movie equipment.

Electrical supplies, such as wire, cable, switches, and boxes.

Food products processing and combining by baking, boiling, cooking, canning, dehydrating, freezing, frying, grinding, mixing, and pressing.

Hats.

Ice, dry and natural.

Jewelry.

Laboratories--medical, dental, research, experimental, and testing.

Machine shops for tool, die, and pattern making.

Pharmaceutical products, compounding only.

Plastic products.

Products from finished materials of plastics, bone, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, precious and semi-precious stones, rubber, shells, yard, or other similar materials.

Soldering and welding.

Textile--spinning, weaving, and manufacturing.

Tools and hardware.

Toys.

Watches.

Wood products, such as furniture, boxes, crates, baskets, pencils, and cooperage work.

Greenhouses.

Railroad rights-of-way, trackage and sidings.

Warehouses.

Weighers, commercial.

40-4-24 **SPECIAL-USE PERMIT.** The following uses may be allowed by special-use permit.

Car washes.

Drive-in restaurants.

Drive-in theaters.

Gasoline service stations.

Motor freight terminals.

Radio, television, and telephone transmitting towers and equipment.

Stadium, auditoriums, and arenas.

Trade schools.

Utility substations.

Airports.

Research or manufacturing involving explosives or flammable gases or liquids.

Fuel sales and storage.

40-4-25 - 40-4-29 RESERVED.

DIVISION IV - "I-2" HEAVY INDUSTRIAL DISTRICT

40-4-30 **"I-2" HEAVY INDUSTRIAL DISTRICT.** The "I-2" Heavy Industrial District encompasses areas where a satisfactory correlation of factors such as adequate transportation, efficient land assembly, adequate topographical characteristics, and adequate availability of utilities required by industry may be achieved. It is intended that this district will provide for any type of manufacturing that is not permitted in the "I-1" Light Industrial District, that meets the requirements and conditions of this Code, and which may be carried out in a manner that will not endanger the public health, safety, and general welfare. It is further intended to insure the Village will achieve a favorable position with respect to regional and national competition for production and distribution of manufactured goods.

40-4-31 **CONDITIONS OF USE.**

(A) Any production, processing, cleaning, servicing, testing, repair, or storage of goods, materials, or products shall take place without creating disturbing influences to the use and occupancy of adjoining properties.

(B) All business, production, servicing, and processing shall take place within completely enclosed buildings unless otherwise approved. Storage of equipment and supplies in this district may be open to the sky but shall be enclosed by a wall or fence, including gates, at least **eight (8) feet** high and if abutting a "Residential" or "Commercial" District an approved landscaped screen shall be provided. Open off-street loading facilities and open, off-street parking facilities for the storage of motor vehicles may be unenclosed throughout the district, except for such screening of parking and loading facilities as may be required to protect adjacent uses or residential districts.

(C) **Railroad Siding Frontage.** No yards shall be required for those portions of lots which front on railroad sidings.

(D) **Buffer Areas.** A **twenty (20) foot** wide planting screen, consisting of suitable shrubbery and trees, shall be planted wherever an industrial use abuts any other use district. Such screen shall consist of shrubbery and trees at least **five (5) feet** in height when planted and shall be maintained at not less than **twenty (20) feet** in height when full grown or as reviewed by the Manager and approved by the Environmental Committee.

(E) **Yard Areas.** No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such building.

(F) **Front Yard.** On every zoning lot a front yard of not less than **seventy-five (75) feet** in depth shall be provided.

(G) **Side Yards.** On every zoning lot a side yard shall be provided along each side lot line. Each side yard shall be not less in width than **twenty-five (25) feet.**

(H) **Rear Yard.** A rear yard of at least **twenty (20) feet** in depth shall be provided.

(I) **Maximum Height of Principal Structures.** The maximum height of all principal structures in this District shall be **forty-five (45) feet.**

(J) **Lot Coverage.** Not more than **forty percent (40%)** of the area of a lot may be covered by buildings and structures, including accessory buildings.

(K) **Additional Requirements.** The applicant should refer to the other portions of this Code for additional use regulations.

40-4-32 **PERMITTED USES.** Uses permitted in the “I-1” District, **See Section 40-4-23.**

Any commercial, industrial, or manufacturing operation which is not detrimental to the public health, safety and general welfare, and provided that adequate safeguards (structural, mechanical, and locational) shall be provided to protect adjoining properties from the effects of noisome or injurious substances, conditions, and operations.

40-4-33 **SPECIAL USES.** The following uses may be allowed by special-use permit.

Junk yards.

Sanitary landfills.

ARTICLE V

SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

40-5-1 **APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements, design standards, and use limitations 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 **FENCES, WALLS.**

(A) No barbed wire or electrically-charged fence shall be erected or maintained anywhere in this Municipality, except in the Non-Urban District by special use permit.

(B) No fence, wall, or other obstruction shall be erected within any public right-of-way, except by written permission of the Zoning Administrator.

(C) No fence, wall, or other obstruction shall be erected in violation of the Illinois Drainage Code (**See 70 ILCS Secs. 605/2-1 – 605/2-12**)

(D) Every fence, wall, or other obstruction shall conform to the special height restrictions applicable in areas near intersections. (**See Sec. 40-3-14(B)**)

40-5-3 **GREENHOUSES, NURSERIES.**

(A) No fertilizer, compost, manure, or other odor or dust-producing substance shall be stored closer than **one hundred (100) feet** to any lot line.

(B) Greenhouse heating plants shall be situated in an enclosed structure, and shall not be closer than **fifty (50) feet** to any lot line.

40-5-4 **HOME OCCUPATIONS.** A "home occupation" means any business, profession, or occupation conducted for gain or support entirely within any dwelling or on any residential premises. Within this Municipality every home occupation shall be considered a special use. No home occupation shall be established or conducted except in conformity with the following regulations:

(A) **Unrelated Employees.** A home occupation shall employ no more than **one (1)** individual who is unrelated to the family residing on the premises.

(B) **Floor Space.** The total area used for a home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **three hundred (300) square feet**, whichever is less.

(C) **Dwelling Alterations.** In any residential district, a principal residential building shall not be altered--to accommodate a home occupation—in such a way as to materially change the residential character of the building.

(D) **Outdoor Storage.** Outdoor (unenclosed) storage on the premises of equipment or materials used in connection with a home occupation is prohibited.

(E) **Nuisances.** A home occupation shall not generate any offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical interference noticeable at or beyond the lot lines.

(F) **Parking.** See Article VI.

40-5-5 HOSPITALS, NURSING HOMES.

(A) The lot on which any hospital or sanitarium is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **five (5) acres**.

(B) 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**.

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

40-5-6 JUNK YARDS.

(A) No part of any junk yard--which includes any lot on 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.

40-5-7 KENNELS.

(A) The lot on which any kennel is situated shall have a minimum area of **three (3) acres**.

(B) Every kennel shall be located at least two **hundred (200) feet** from the nearest dwelling, and at least **one hundred (100) feet** from any lot line.

40-5-8 **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 Mobile Home Park 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 **one (1)** travel trailer or other recreational vehicle shall be parked on any lot.

(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) No travel trailer or other recreational vehicle shall be parked on any front yard, except on a driveway.

40-5-9 **SCHOOLS.**

(A) The lot on which any school is situated shall have the minimum area indicated below:

<u>Type of School</u>	<u>Minimum Lot Area</u>
Nursery	20,000 sq. ft. , plus at least 100 sq. ft. of fenced outdoor play area per child.
Other (elementary, junior high, senior high)	As required by State law (See 105 ILCS Sec. 5/35-8) – generally four (4) acres , plus one (1) additional acre for every 150 students in excess of 200 .

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

40-5-10 **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.

40-5-11 **SWIMMING POOLS.**

(A) No swimming pool, whether public or private, shall be located in any front yard or closer than **twenty-five (25) feet** to any side or rear lot line.

(B) Every swimming pool that is more than **two (2) feet deep** shall be enclosed by a wall or fence at least **four (4) feet** in height. The passage through such wall or fence shall be equipped with a gate.

40-5-12 **UTILITY SUBSTATIONS.** Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, 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 exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

ARTICLE VI

LOCATION OF PARKING

40-6-1 **RESIDENTIAL DISTRICTS.** All off-street parking shall be located in conformity with the following requirements:

(A) Parking spaces accessory to dwellings located in the residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards. 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.

(B) All parking spaces accessory to permitted non-dwelling uses located in any residential district generally shall be located on the same lot as the use served. However, the Zoning Administrator may allow such parking facilities to be located on another parcel within **two hundred (200) feet** of the use served if the "same lot" requirement is not feasible.

(C) No commercial vehicle exceeding **one (1) ton** cargo capacity shall be parked anywhere in any residential district except for normal loading, unloading, and service calls, nor shall any vehicle repair work be conducted on any non-residential parking lot located in said districts.

40-6-2 **COMMERCIAL AND INDUSTRIAL DISTRICTS.**

(A) Parking spaces accessory to any dwelling located in any commercial district shall either be located on the same lot as the dwelling or on another parcel within **two hundred (200) feet** of the residential premises. Parking lots accessory to any commercial or industrial use located in any commercial district or in the Industrial District shall be located within **five hundred (500) feet** of the use served; provided, that no portion of any such parking lot shall extend into any residential district except by written permission of the Administrator.

(B) In any commercial 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 regulations governing location of parking spaces in relation to the uses served are observed.

40-6-3 **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 on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. "Employee parking" means "one 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.

40-6-4 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>
(A) <u>Dwellings, Lodgings:</u>		
Hotels, motels, boarding houses, lodges	1 space per lodging unit, plus employee parking	1 space if the use has 20,000 sq. ft. or more of floor area
Mobile Homes	2 spaces per mobile home	Not applicable
Multiple-family dwellings		Not applicable
1 Bedroom or less	1.5 spaces per dwelling unit	
2 or more bedrooms	2 spaces per dwelling unit	
Single-family & two family dwellings	2 spaces per dwelling unit	Not applicable

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>	<u>LOADING SPACES REQUIRED (IF ANY)</u>
(B) <u>Educational, Institutional, Recreational:</u>		
Churches, auditoriums	1 space per 4 seats in the largest seating area	Not applicable
Hospitals	1 space per 2 beds, plus em- ployee parking	To 50,000 sq. ft. of floor area – 1 space; 50,001-100,000 sq. ft. - 2 spaces; 100,001 - 200,000 sq. ft. – 3 spaces.
Libraries, museums	1 space per 500 sq. ft. of floor area.	On review by the Administrator.
Nursing homes	1 space per 5 beds	To 50,000 sq. ft. of floor area – 1 space; 50,001 - 100,000 sq. ft. – 2 spaces; 100,001 - 200,000 sq. ft. - 3 spaces.
Schools		On review by the Administrator.
Elementary and junior high	1 space for every 20 students that the building is designed to accommodate, plus employee parking.	
Senior high	1 space for every 4 students over 16 yrs. old that the building is designed to accommodate, plus employee parking.	

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>	<u>LOADING SPACES REQUIRED (IF ANY)</u>
Trade schools	1 space for every 3 students that the building is designed to accommodate, plus employee parking.	
(C) <u>Commercial, Office, Service:</u>		
NOTE: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. To 10,000 sq. ft. of floor of floor area	area – 1 space; more than 10,000 sq. ft. – 1 space plus 1 additional space per 50,000 sq. ft. of floor area in excess of 10,000 sq. ft.
Banks, savings and loans		(Both walk-in & drive-in) To 300,000 sq. ft. of floor
Walk- in	1 space per 300 sq. ft. area –	none required; 30,001 - 100,000 sq. ft. – 1 space;
Drive-in	5 spaces per teller Window	more than 100,000 sq. ft. - 1 space plus 1 additional space per 100,000 sq. ft. of floor area in excess of 100,000 sq. ft.
Beauty and barber shops	2 spaces per chair, plus employee parking	Not applicable

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>	<u>LOADING SPACES REQUIRED (IF ANY)</u>
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	5 spaces per wash lane	Not applicable
Furniture and appliance stores	1 space per 600 sq. ft. To 25,000 sq. ft. of floor area	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.
Home occupations	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; more than 100,000 sq. ft. – 1 space plus 1 additional space per 10,000 sq. ft. of floor area in excess of 100,000 sq. ft.

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>	<u>LOADING SPACES REQUIRED (IF ANY)</u>
Offices, medical/dental	1 space per 200 sq. ft. Not applicable of floor area or 3 spaces per professional whichever is greater.	
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.
Restaurants, refreshment stands		(Both sit-down & drive-in) 1 space per structure having 10,000 sq. ft. or more of 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
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. To 25,000 sq. ft. of unenclosed 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. additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	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 space per 2,500 sq. ft. additional space per 5,000 sq. ft. of open lot area in excess of 25,000 sq. ft.

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>	<u>LOADING SPACES REQUIRED (IF ANY)</u>
(D) <u>Industrial:</u>	Any manufacturing, warehousing, or other spaces per employee on industrial use.	Employee parking 1.5 To 20,000 sq. ft. of floor area – 1 space; 20,001 - 50,000 sq. ft. – 2 spaces; 50,000 – 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.

ARTICLE VII

NONCONFORMITIES

40-7-1 **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 use of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the emission of noxious fumes or excessive noise, 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.

40-7-2 **NONCONFORMING LOTS.** 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 may be used in the manner indicated in **Sections 40-7-3** and **40-7-4** if such vacant lot:

- (A) is of record on the date of the adoption or amendment of this Code; and
- (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 any applicable zoning or other ordinance; and
- (C) is at least **thirty (30) feet** wide.

40-7-3 **NONCONFORMING LOTS: RESIDENTIAL DISTRICTS.** In any residential district, **one (1)** single-family dwelling and related accessory structure, but no other use, may be erected on any vacant nonconforming lot of the type scribed above provided all the bulk regulations of the particular district are observed.

40-7-4 **NONCONFORMING LOTS: COMMERCIAL AND INDUSTRIAL DISTRICTS.** In the Industrial and Commercial districts, any structure permitted in the particular district may be erected on any vacant nonconforming lot of the type described above if the bulk requirements of that district are met.

40-7-5 NONCONFORMING LOTS: 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, and 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.

40-7-6 NONCONFORMING STRUCTURES. Any 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 restrictions on 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) **Enlargement, Alterations.** No such structure shall be enlarged or altered in any way which increases its conformity.

(B) **Relocation.** No such structure shall be relocated unless, after relocation, it will conform to all the regulations of the district in which it is located.

(C) **Reconstruction.** No such 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 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.

40-7-7 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 nonconforming 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 shall not be changed except to a use permitted under the applicable district regulations.

(E) **Discontinuance of Use.** When a nonconforming use of a structure, or of a structure and premises in combination, is discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year** period, 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.

40-7-8 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.** A nonconforming use of land shall not be changed except to a use that is permitted under the applicable district regulations.

(D) **Discontinuance.** When a nonconforming use of land is discontinued for a period of **twelve (12) consecutive months**, 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.

40-7-9 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 VIII

ADMINISTRATION AND ENFORCEMENT

40-8-1 **ZONING ADMINISTRATOR.** The office of Zoning Administrator of this Municipality is hereby established. The Zoning Administrator shall be the executive head of this office. With the consent of the Board of Trustees, the Administrator may appoint such other employees as he deems necessary to carry out the duties of this office.

40-8-2 **DUTIES.** 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 and pass upon applications for initial and final certificates of zoning compliance;

(B) to inspect land, structures, and uses to determine compliance with this Code, and where there are violations, to initiate appropriate corrective action;

(C) to review and forward to the Zoning Board of Appeals all applications for variances and appeals;

(D) to review and forward to the Planning Commission all applications for special use permits, temporary use permits, and amendments;

(E) to maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special use permits, temporary use permits, variances, interpretative decisions of the Board of Appeals, amendments, and all applications related to any of these matters;

(F) to periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the Planning Commission at least once each year;

(G) to annually publish copies of this Code (including the district map) and any amendments thereto;

(H) to provide information to the general public on matters related to this Code; and

(I) to perform such other duties as the Board of Trustees may from time to time prescribe.

40-8-3 **INITIAL 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 an initial certificate of zoning compliance

has been issued. The Administrator shall not issue an initial certificate of zoning compliance unless, following consultation with technically qualified persons as necessary, he determines that the proposed work conforms to the applicable provisions of this Code.

40-8-4 **APPLICATION.** Every applicant for an initial certificate of zoning compliance shall submit to the Administrator, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Administrator shall decide which items are applicable. (See also Section 40-8-12 "**Schedule of Fees**".)

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 adjacent uses or structures;
- (E) area and dimensions of the site for the proposed structure or use;
- (F) existing topography of the site (USGS ten-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 and setbacks of the proposed structure;
- (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 or proposed utilities, whether public or private; and/or
- (L) any other pertinent information that the Administrator may require.

40-8-5 **DURATION OF CERTIFICATE.** Initial 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 initial certificates of zoning compliance for successive **one-year periods** upon written request, provided the applicant is making a good faith effort to complete the authorized work.

40-8-6 **RELATIONSHIP TO BUILDING PERMITS.** Upon the effective date of this Code, the Building Commissioner shall not issue any building permit for the erection, enlargement, extension, alteration, or reconstruction of any structure unless the applicant for such permit presents to the Commissioner a copy of the initial certificate of zoning compliance pertaining to such work.

40-8-7 **FINAL CERTIFICATES OF ZONING COMPLIANCE.** No lot or part thereof recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied, or put into operation until a final certificate of zoning compliance has been issued. The Administrator shall not issue a final certificate of zoning compliance until he has determined, by inspection, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

40-8-8 **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 Code, he shall so notify the responsible party, and shall order appropriate corrective action.

(A) **Contents of Order.** The order to take corrective action shall be in writing and shall include:

- (1) a description of the premises sufficient for identification;
- (2) a statement indicating the nature of the violation;
- (3) a statement of the remedial action necessary to effect compliance;
- (4) the date by which the violation must be corrected;
- (5) a statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (6) the date by which an appeal of the corrective action order must be filed, and a statement of the procedure for so filing; and
- (7) 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.

(B) **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:

- (1) served upon him personally;
- (2) sent by registered mail to his last known address; or
- (3) posted in a conspicuous place on or about the affected premises.

(C) **Stop Orders.** Whenever any work is being done in violation of an initial certificate of zoning compliance, the Administrator's corrective action order may state that the violation must cease immediately. (See Sec. 40-8-8(A)(4)) In such case, the corrective action order is equivalent to a stop order.

40-8-9 **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 to property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-8-10 **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, immediately investigate, and, if necessary, institute appropriate corrective action.

40-8-11 **PENALTIES.**

(A) Any person who is convicted of a violation of this Code shall be fined not less than **Fifty Dollars (\$50.00)** nor more than **Five Hundred (\$500.00) Dollars**, plus costs. Each day that a violation continues shall be considered a separate offense.

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

40-8-12 **SCHEDULE OF FEES.** All fees indicated in tabular form below shall be paid to the Village Clerk. Said fees are intended to defray the administrative costs connected with the processing/conducting of the listed permits/procedures; they do not constitute a tax or other revenue-raising device.

<u>PERMIT/PROCEDURE</u>	<u>FEE</u>
Initial certificate of zoning compliance	\$10.00
Final certificate of zoning compliance	N/A
Special use permit	25.00
Temporary use permit	25.00
Amendment	25.00
Appeal	25.00
Variance	25.00

ARTICLE IX

MATTERS ENTRUSTED TO THE PLANNING COMMISSION

DIVISION I - SPECIAL-USE PERMITS

40-9-1 **PURPOSE OF PERMITS.** This Code divides this Municipality 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 by permission of the Board of Trustees.

40-9-2 **APPLICATION.** Every applicant for a special use permit shall submit to the Administrator, in narrative and/or graphic form, the items of information enumerated below. The Administrator shall prepare an advisory report on every request for a special use permit. He shall promptly transmit the completed application and his advisory report to the Planning Commission. (See also Section 40-8-12 "Schedule of Fees".)

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 adjacent uses or structures;
- (E) area and dimensions of the site for the proposed structure or uses;
- (F) existing topography of the site (USGS ten-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 and setbacks of the proposed structure;
- (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 or proposed utilities, whether public or private; and/or
- (L) any other pertinent information that the Administrator may require.

40-9-3 **PUBLIC HEARING, NOTICE.** The Planning Commission shall hold a public hearing on every special use permit application within a reasonable time after said 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)** nor less than **fifteen (15) days** before the hearing;

(A) by first class mail to the applicant and to all parties whose property would be directly affected by the proposed special use; and

(B) by publication in a newspaper of general circulation within this Municipality.

40-9-4 **ADVISORY REPORT, FACTORS CONSIDERED.** Within a reasonable time after the public hearing, the Planning Commission shall submit their advisory report to the Board of Trustees. In deciding what their advice should be, the Planning Commission 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;

(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 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.

40-9-5 **ACTION BY BOARD OF TRUSTEES.** The Board of Trustees shall act on every request for a special use permit at their next regularly scheduled meeting following submission of the Planning Commission's advisory report. Without further public hearing, the Board of Trustees may grant a special use permit by an ordinance passed by simple majority vote of all members then holding office. In a separate statement accompanying any such ordinance, the Board of Trustees shall state their findings of fact, and indicate their reasons for approving (with or without conditions) or denying the request for a special use permit.

40-9-6 **TEMPORARY USE PERMITS.** As set forth at **Section 40-3-8**, requests for temporary use permits shall be treated in substantially the same manner as requests for special use permits. The Board of Trustees shall not initially issue any temporary use permit for a period longer than one year, but they may renew any such permit as they see fit. (**See also Section 40-8-12, "Schedule of Fees".**)

40-9-7 - 40-9-9 **RESERVED.**

DIVISION II - AMENDMENTS

40-9-10 **PROPOSALS FOR AMENDMENTS.** The Board of Trustees may amend this Code in accordance with State law (**See 65 ILCS Sec. 5/11-13-14**) 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 Board of Trustees, the Administrator, the Board of Appeals, the Planning Commission, or any party in interest.

40-9-11 **FILING.** Every proposal to amend this Code shall be filed with the Administrator on a prescribed form. (Every amendment proposal shall also be filed with the Soil and Water Conservation District as per **70 ILCS Sec.405/22..02a.**) The Administrator shall promptly transmit said proposal, together with any comments or recommendation he may wish to make, to the Planning Commission for a public hearing. (**See also Section 40-8-12, "Schedule of Fees".**)

40-9-12 **PUBLIC HEARING, NOTICE.** The Planning Commission shall hold a public hearing on every amendment proposal within a reasonable time 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 first class mail to all parties whose property would be directly affected by the proposed amendment; and

(B) by publication in a newspaper of general circulation within this Municipality.

40-9-13 **ADVISORY REPORT, FINDINGS OF FACT.** Within a reasonable time after the public hearing, the Planning Commission shall submit their advisory report to the Board of Trustees. The report shall state the Planning Commission's recommendations 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 Planning Commission shall include in their advisory report findings of fact concerning each of the following matters:

- (A) existing use(s) and zoning of the property in question;
- (B) existing use(s) 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; and
- (F) the effect the proposed rezoning would have on implementation of this Municipality's comprehensive plan.

40-9-14 **ACTION BY BOARD OF TRUSTEES.** The Board of Trustees shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Planning Commission's advisory report. Without further public hearing, the Board of Trustees may pass any proposed amendment or may refer it back to the Planning Commission for further consideration, by simple majority vote of all the members then holding office.

EXCEPTION: The favorable vote of at least **two-thirds (2/3)** of all the members of the Board of Trustees is required to pass an amendment to this Code when the proposed 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. (See 65 ILCS Sec. 5/11-13-14)

ARTICLE X

ADMINISTRATION

DIVISION I - BOARD OF APPEALS ESTABLISHED

40-10-1 **MEMBERSHIP, APPOINTMENT, COMPENSATION.** The Zoning Board of Appeals of this Municipality is hereby established in accordance with Illinois law. The Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within this Municipality. Each Board member shall be appointed by the Mayor with the advice and consent of the Board of Trustees. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. Each Board member shall receive for his services such compensation, if any, as is determined from time to time by the Board of Trustees. **(See 65 ILCS Sec. 5/11-13-3)**

40-10-2 **TERM OF OFFICE, VACANCIES.** Each Board member shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified; provided, however, that the initial appointees to the Board shall serve respectively for the following terms: **One (1)** for **one (1) year**, **one (1)** for **two (2) years**, **one (1)** for **three (3) years**, **one (1)** for **four (4) years**, **one (1)** for **five (5) years**, **one (1)** for **six (6) years**, and **one (1)** for **seven (7) years**. With the advice and consent of the Board of Trustees, the Mayor may remove any member of the Board of Appeals for cause, after a public hearing. Vacancies on the Board 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.

40-10-3 **MEETINGS, QUORUM.** All meetings of the 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 they deem 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 by Board action.

40-10-4 **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 in the Board's office, and shall be a public record.

40-10-5 - 40-10-6 **RESERVED.**

DIVISION II - APPEALS

40-10-7 **NATURE OF ACTION.** 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. Every such appeal shall be made and treated in accordance with Illinois law (**See 65 ILCS Sec. 5/11-13-12**) and the provisions of this Section.

40-10-8 **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 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 (**70 ILCS Sec. 405/22.02a**).) Not more than **five (5) working days** after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. (**See also Section 40-8-12, "Schedule of Fees"**.)

40-10-9 **STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board, 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 Board or the circuit court grants a restraining order for due cause, and so notifies the Administrator.

40-10-10 **PUBLIC HEARING, NOTICE.** The 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)** nor less than **fifteen (15) days** before the hearing:

- (A) by first class mail to all parties directly affected by the appeal; and
- (B) by publication in a newspaper of general circulation within this Municipality.

40-10-11 **DECISION BY BOARD OF APPEALS.** The Board of Appeals shall render a decision on the appeal within a reasonable time after the hearing. The Board may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from to the extent and in the manner that they deem appropriate. In so doing, the Board of Appeals has all the powers of the Administrator.

40-10-12 - 40-10-13 **RESERVED.**

DIVISION III - VARIANCES

40-10-14 **NATURE OF VARIANCE.** 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 may be granted only as provided for at **Section 40-9-3.**

40-10-15 **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 (**See 70 ILCS Sec. 405/22.02a**.) The Administrator shall promptly transmit said application, together with any advice he might wish to offer, to the Board of Appeals. The application shall contain sufficient information to allow the Board to make an informed decision, and shall include, at a minimum, the following: (**See also Section 40-8-12, "Schedule of Fees"**.)

- (A) name and address of the applicant;
- (B) location of the structure/use for which the variance is sought;
- (C) relationship of said structures/uses to existing structures/uses on adjacent lots;
- (D) specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and
- (E) any other pertinent information that the Administrator may require.

40-10-16 **PUBLIC HEARING, NOTICE.** The Board of Appeals shall hold a public hearing on each variance request within a reasonable time 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 first class mail to the applicant and to all parties whose property would be directly affected by the proposed variance; and
- (B) by publication in a newspaper of general circulation within this Municipality.

40-10-17 **STANDARDS FOR VARIANCES.** **The Board of Appeals shall not grant any variance unless, based upon the evidence presented to them, they determine that:**

- (A) the proposed variance is consistent with the general purposes of this Code (See Sec. 40-1-1); and
- (B) strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property; and
- (C) the proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property; and
- (D) the plight of the applicant is due to peculiar circumstances not of his own making; and
- (E) 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
- (F) 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.

40-10-18 **TERMS OF RELIEF, FINDINGS OF FACT.** The Board of Appeals shall render a decision on every variance request within a reasonable time after the public hearing. In accordance with State law (**See 65 ILCS Sec. 5/11-13-11**), the Board of Appeals 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 Board's reasons for granting or denying any requested variance.