CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

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

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

(A) To encourage the development of buildings and uses on appropriate sites in order to maximize community-wide social and economic benefits while accommodating the particular needs of all residents, and to discourage development on inappropriate sites;

(B) To assist as an implementing tool for Comprehensive Planning;

(C) To protect and enhance the character and stability of sound existing residential, commercial and industrial areas, and to gradually eliminate nonconforming uses and structures;

(D) To conserve and increase the value of taxable property throughout the City;

(E) To ensure the provision of adequate light, air, privacy, and convenience of access for the occupants of all buildings;

(F) To promote the use of signs which are safe, aesthetically pleasing, compatible with their surroundings, and legible in the circumstances in which they are seen; and

(G) To provide for the efficient administration and fair enforcement of all the substantive regulations in this Code.

40-1-3 JURISDICTION. This Code shall be applicable within the corporate limits of this City and within the **one and one-half (1 ½) mile** area outside the corporate limits in each direction.

40-1-4 INTERPRETATION. Every provision of this Code shall be construed liberally in favor of this City, and every requirement imposed in this Code 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.

40-1-5 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.

(B) Any suit brought against any officer, board member, agent, or employee of this City, 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.

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

40-1-7 REVIEW. This Code shall be reviewed every **five (5) years** after its effective date by the Plan Commission and/or the Board of Appeals. After the review, they shall file their reports and recommendations with the corporate authorities.

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 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.

(F) The term "may" is discretionary.

(G) The words "lots," "parcel," "tract," and "site" shall be synonymous.

(H) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.

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

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

(K) 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: As applied to lots, "abutting" means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley, or other public right-of-way.

Access Way: A curb cut, ramp, or other means for providing vehicular access to an off-street parking or loading area from a street.

Accessory Use: Any structure or use that is:

(A) Subordinate in size or purpose to the principal use or structure which it serves;

(B) Necessary or contributing to the comfort and convenience of the occupants of the principal use or structure served; and

(C) Located on the same lot as the principal use or structure served.

Administrator: The official appointed by the Mayor with the advice and consent of the City Council 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, 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.

All-Terrain Vehicle (ATV): Any motorized off-highway device designed to travel primarily off-highway, **fifty (50) inches** or less in width, having a manufacturer's dry weight of **nine hundred (900) pounds** or less, traveling on **three (3)** or more low-pressure tires, designed with a seat or saddle for operator

use, and handlebars or steering wheel for steering control, except equipment such as lawnmowers. **(625 ILCS 5/1-1-1.8)**

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 or the moving from one location to another.

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.

Apartment: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

Apartment Hotel: A multiple-family dwelling which furnishes for its tenant's services customarily provided by hotels, but which does not furnish such services to the transient public.

Attached: As applied to buildings, "attached" means having a common wall and/or a common roof.

Auditorium: A room, hall or building made a part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience, to hear lectures, plays and other presentations, as well as participate in dances, dinners, expositions, bingos, etc.

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

Bed and Breakfast: An operator-occupied residence providing accommodations for a charge to the public with no more than **five (5) guest rooms** for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Breakfast and light snacks/refreshments may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Billboard: A sign advertising a commodity, business, service, or event not available or conducted upon the premises where such sign is located or to which it is affixed.

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 Zoning Board of Appeals of the City.

Boarding House: A building or portion thereof--other than a hotel, motel, or apartment hotel--containing lodging rooms for **three (3)** or more persons who are not members of the keeper's family, and where lodging and/or meals are provided by prearrangement and for definite periods.

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 structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

Building, Enclosed: A building 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.

Building Height: The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the roof.

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 line.

Building, Principal: A non-accessory building in which the principal use of the premises is conducted.

Bulk: Any one or any combination of the following:

(A) Size or height of structure;

(B) Location of exterior walls at all levels in relation to lot lines, streets, or other structures;

(C) Floor/area ratio;

(D) Yards or setbacks;

(E) Lot coverage.

Camping Trailer: A trailer, not used commercially, constructed with partial side walls which fold for towing and unfold to provide temporary living quarters for recreational camping or travel use and of a size or weight not requiring an over-dimension permit when towed on a highway. **(625 ILCS 5/1-109.01)**

Camping Trailer Park: A lot developed with facilities for accommodating temporarily occupied camping trailers.

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 may be occupied or used.

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.

Church or Building for Religious Worship: A building used by a corporate religious institution that people regularly attend to participate in religious services, meetings and other customary, integrally related religious activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Clinic: An establishment where 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 or 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).

Community Residence: A group home or specialized residential care home serving unrelated persons with handicaps which is licensed, certified or accredited by appropriate local, state or national bodies. Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse or for treatment of communicable disease.

Community Residence - Large: A community residence serving **nine (9)** to **fifteen (15) persons** with handicaps.

Community Residence - Small: A community residence serving **eight (8)** or fewer persons with handicaps in a family-like atmosphere.

Conforming: In compliance with the applicable provisions of this Code.

Convenience Shop: Any small retail commercial or service establishment offering goods/services.

Day Care Center: See **"Nursery School."**

Deck: An open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

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.

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 or Refreshment Stand: An establishment principally used for the sale of fast order food for consumption off the premises or in parked cars on the premises. Fast order food means food that is:

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

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public. Modular dwellings on permanent foundations shall be treated in the same manner as conventionally constructed dwellings (see definition for modular and permanent foundation).

Dwelling, Multiple-Family: A building or portion thereof containing **three (3)** or more dwelling units.

Dwelling, Single-Family: A detached dwelling containing one dwelling unit and intended for the occupancy of one family.

Dwelling, Two-Family: A dwelling containing **two (2) dwelling units**.

Dwelling Unit: One or more rooms designed or used as living quarters by one 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.

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: Build, construct.

Essential Governmental or Public Utility Services: The erection, replacement, construction, alteration, or maintenance by public utilities or governmental departments, of underground or overhead gas, electrical, steam, water transmission or distribution systems, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings.

Establishment: 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: Existing, constructed or in operation, on the effective date of this Code.

Extend: To increase the amount of floor area or land area devoted to an existing use.

Family:

(A) A single individual doing his own cooking and living upon the premises as a separate housekeeping unit; or

(B) A collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, adoption or employment as domestic servants; or

(C) A group of not more than **three (3)** unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity or hotel).

Farmhouse: A detached dwelling on a tract of land of not less than **ten (10) acres** and occupied by a family whose income is primarily derived from agricultural activities conducted on the premises.

Filling Station: **(See Service Station)**

Floor Area, Gross: As used in determining floor/area ratios and parking requirements, 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 all of the following: basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; enclosed porches.

Freight Terminal: as applied to motor carriers subject to the **625 ILCS 18c-1101 et seq.**, a station for commercial motor vehicles wherein said motor trucks are stored, repaired or parked.

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

Garage: A structure designed and primarily used for the storage of motor vehicles, whether free of charge or for compensation.

Government: The act or process of administering public policy in a political unit; a political jurisdiction, the office or function thereof.

Home Occupation: Any business, profession, or occupation conducted for gain or support entirely within a dwelling or on residential premises in conformity with the provisions of this Code. **(See Section 40-5-7.)**

Hospital: An institution devoted primarily to the maintenance and operation of facilities around-the-clock for the diagnosis, treatment, or care for members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Code does not include institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, nor does it include convalescent or nursing homes.

Hotel: An establishment containing lodging accommodations designed for use by travelers or temporary guests. Facilities provided may include a general kitchen, maid service, desk service, meeting rooms, restaurants, cocktail lounges, and similar ancillary uses, but not cooking facilities in guest rooms.

Immobilize: As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and place on a permanent foundation.

Intensify: To increase the level or degree of.

Intersection: The point at which two 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, bailing, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition (or part thereof), and metals, glass, paper, plastics, rags, and rubber tires. A rebuttable presumption as to the existence of a junk yard shall arise with regard to any lot upon which **three (3)** or more inoperable vehicles are located. An "inoperable vehicle" for purposes of this provision shall be defined by **Chapter 24** of the Motor Vehicle Code herein. 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 or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

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

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

Lot: A tract of land used or developed as a unit, under single ownership or under single control. A "lot" may or may not coincide with a "lot of 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. The rear lot on corner lots shall be defined as the line most distant and most nearly parallel to either of the front lot lines as defined elsewhere in these definitions.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: An area of land designated as a lot on a plat of subdivision recorded or registered with the County Recorder of Deeds, in accordance with State law.

Lot Size Requirement: Refers to the lot area, width, and depth requirements of the applicable district.

Lot Size/Bulk Variance: A relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure. A lot Size/Bulk Variance goes with the property.

Lot Width: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear line of the required front yard (building lines), especially on irregularly shaped lots.

Maintenance: The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep a structure in sound condition.

Mini-Warehouses: A building, or part of one, for the storage of goods, merchandise, etc. for rent to individuals or businesses for a monthly fee.

Manufactured (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 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. The term "manufactured home" shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "National Manufactured Housing Construction and Safety Standards Act of 1974". Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior taillight end of the manufactured home. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a "manufactured home" but shall be an "immobilized manufactured home". A manufactured home should not be confused with a "camping trailer" or "recreational vehicle". **(See 210 ILCS 115/2.10)**

Manufactured Home, Dependent: A manufactured home which does not have a toilet and bath or shower facilities. **(See 210 ILCS 115/2.3)**

Manufactured Home, Double-Wide: Consists of **two (2) mobile units** joined at the site into a single home but kept on their separate chassis for repeated transportation to a site.

Manufactured Home, Immobilized: Any manufactured home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The City Council establishes the following criteria to complete the immobilization of a manufactured home:

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

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

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

Manufactured Home, Independent: A manufactured home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS 115/2.4)**

Manufactured Home Lot: A parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

Manufactured Home Pad: That part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

Manufactured Home Park: A tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(See 210 ILCS 115/2.5)**

Manufactured Home Sales Area: A parcel of land used for the display, sale and repair of new or used manufactured homes.

Manufactured Home Space: A portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home**.

Manufactured Home Stand: The part of a manufactured home space beneath the manufactured home that includes the concrete slab on which the home is placed and to which it is anchored.

Manufactured Housing Unit: Includes all forms of housing units listed in this Section and as regulated in this Code.

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 modular home is a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum

living area of not less than **one thousand two hundred (1,200) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

Motel: A motel for motorists, usually with blocks of rooms opening directly onto a parking area. Also called motor court.

Nonconforming: As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code, but (2) 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. **(See Chapter 25 of the Revised Code)**

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 predominantly pre-elementary or 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.

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

Off-Street Parking Area: Land that is improved 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 either a principal use or an accessory use.

Off-Street Parking Space: 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 passenger motor vehicle.

Oil and/or Gas Well: A pierced or bored hole in the ground used to extract a naturally occurring commodity such as petroleum oil or natural gas.

Outdoor Wood Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors and is primarily hand-loaded for the propose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An Outdoor Wood Furnace may also be referred to as an Outdoor Wood Boiler, Outdoor Wood-fed Hydronic Heater or Hydronic Heater.

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, flooding, etc.

Patio: An at-grade -paved area without any walls usually adjacent to a building, and which is intended to be used as an outdoor lounging, dining, or entertaining area.

Permanent Foundation: A permanent support for buildings that are constructed of conventional foundation materials such as concrete or cement blocks. The foundation footing shall extend below the frost line.

Permanent Habitation: A period of **two (2)** or more months. **(See 210 ILCS 115/2.2)**

Permitted Uses: 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.

Plan: The geographical and topographical maps, engineering and architectural drawings and specifications, and other information indicating the location and nature of a development.

Planned Development Project: A residential or commercial development on a parcel of land in single ownership and consisting of **two (2)** or more buildings having any yard, court, parking or loading space in common.

Porch: A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually covered with a roof, generally open-sided, and generally large enough to allow seating devices.

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.

Private Street: Any street providing access to abutting property that is not maintained by and dedicated to a unit of government.

Public Buildings: Any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

Public Open Space: Any publicly owned open area, including, but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public Utilities: Utilities which are either government-owned or owned by an established firm serving a wide geographical area and/or a substantial number of persons.

Public Utility Services: Means and includes facilities providing those services used for or in connection with the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water or light except when used solely for communications purposes. Public Utility Services does not mean and shall not include facilities designed or intended to be used for the transmission of telephone messages or any other form of telecommunications.

Quick Shop: Any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multi-family complex, mobile home park or similar development. No liquor or gasoline shall be sold in this shop.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after partial destruction.

Recreation Vehicle: Every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business. **(625 ILCS 5/1-169)**

Recreational Vehicle (RV) Park: See **Camping Trailer Park**.

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.

Residence: A site-constructed building designed for use as a residence. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a residence shall not exceed a ratio of 3 to 1. All residences shall be placed on a full perimeter foundation extending below the frost depth unless located in a Special Flood Hazard Area and shall have a minimum 3/12 pitch roof. All residences shall have a minimum of **nine hundred (900) square feet** of living area and shall be built in conformity with the International Building Code.

Retail: Refers to the sale of goods and 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 the City or to another unit of government for streets and alleys.

Sanitary Landfill: A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency.

Satellite Dish: Any parabolic/dish-type apparatus, external to or attached to the exterior of a building or structure, capable of receiving, for the benefit of the principal use, television or radio signals. Satellite dishes are considered an accessory use.

Screening: Trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

Semi-Finished Materials: Materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state but are readily usable by light industry for assembly or manufacture into consumer goods.

Service 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 service station may include facilities for washing vehicles and for making minor automotive repairs.

Service Use/Establishment: Any use or establishment where services are provided for remuneration either to individuals or to other firms.

Setback: The distance between the front lot line and the building line; or between a side or rear lot line and the side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

Shuttering: The use of materials which are not part of the original building design to cover unused, exterior windows and, or doors.

Sign: Any object, device, display or structure or part thereof used to advertise, identify, display or attract attention to a person, establishment, product, service or event by any means including words, letters, figures, designs, symbols, fixtures, colors, illuminations, etc. The term "sign" includes, but is not

limited to, every projecting sign, freestanding sign, awning, canopy, marquee sign; changeable copy sign, illuminated sign; moving sign, temporary sign; portable sign; or other display whether affixed to a building or erected elsewhere on the premises. The term "sign" excludes features of a building which are an integral part of the building's design (e.g., the "castle-look" of a White Castle restaurant).

Sign, Canopy/Marquee: Any sign affixed to, painted on, or suspended from an owning, canopy, marquee or similar overhang.

Sign, Flush-Mounted: Any sign attached to or erected against a wall of a structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall and not projecting more than **eighteen (18) inches**. A flush-mounted sign displays only messages associated with the building to which said sign is attached.

Sign, Freestanding: Any sign supported by **one (1)** or more uprights, poles, or braces placed in or upon the ground; or any sign supported by any structure erected primarily for the display and support of the sign; provided that a freestanding sign displays only messages associated with the structure to which it is attached.

Sign, Projecting: Any sign which is suspended from or supported by a wall, awning, canopy, marquee, etc., and which is approximately perpendicular thereto. A projecting sign displays only messages associated with the structure to which it is attached.

Sign Area: The entire area within a single, continuous perimeter enclosing the extreme limits of the message and the background thereof, calculated in accordance with the provisions of this Code.

Sign Area Allowance: The maximum total sign area of all signs that an establishment is permitted to display.

Silt Fence: A temporary barrier of entrenched geotextile fabric (filter fabric) stretched across and attached to supporting posts used to intercept sediment laden runoff from small drainage areas of disturbed soil.

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. A special use permit may not be transferable.

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.

Stoop: A small porch which is usually not covered with a roof and which is primarily used to provide access to the adjoining building.

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 Line: The street right-of-way line abutting a lot line.

Structure: Anything constructed or erected on the ground or attached to something having 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.

Telecommuting: Working in the home by using a computer terminal or other terminal connected by a telephone line or by other means to a central office or central computer.

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 erection/occupation of a temporary structure or the operation of a temporary enterprise.

Topography: The relief features or surface configuration of an area.

Trailer: Every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. **(625 ILCS 5/1-209)**

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 a 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.

Vacant as applied to a lot, means that no structure is situated thereon.

Variance: A relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

Vessel or Watercraft: Every description of watercraft used or capable of being used as a means of transportation on water, except a seaplane on the water, inner tube, air mattress or similar device, and boats used for concession rides in artificial bodies of water designed and used exclusively for such concessions. **(625 ILCS 45/1-2)**

Wholesale: Refers to the sale of goods or services by one business to another business.

Window Sign: Any sign visible from the exterior of a building or structure which is painted directly on the surface of a window or affixed to or suspended immediately behind the window for the purpose of informing passersby of the identity of the proprietor or business, or of the product or service which can be obtained on the premises.

Yard: 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 line 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 applicable yard extends, and which is not nearer to such lot line at any point than the required depth or width of said yard.

Zoning Administrator; Zoning Official or Zoning Officer: The Zoning Administrator of this City or his authorized representative.

Zoning Map: The map(s) and any amendments thereto designating zoning districts. The zoning map is incorporated into this Code.

ARTICLE III - ZONING REGULATIONS

DIVISION I - GENERAL REGULATIONS

40-3-1 ESTABLISHMENT OF DISTRICTS. In order to implement this Code, and to achieve the objectives in **Article I**, the entire City is hereby divided into the following zoning districts:

DISTRICT	DESIGNATION
Agricultural	A-1
Single Family Residence (Large)	SR-1
Single Family Residence (Small)	SR-2
Multi-Family Residence	MR-1
Downtown Business	B-1
Highway Business	B-2
Industrial	I-1
Preservation District Overlay	O-PD
Flood Plain District	O-FP

40-3-2 MAP - ANNUAL PUBLICATION. The boundaries of the listed zoning districts are hereby established as shown on the zoning map of this City. The zoning map, including all notations and other information thereon, is hereby made a part of this Code by reference. Official copies of the zoning map shall be kept on file in the office of the City Clerk.

In accordance with State Law, the Administrator shall publish the City's zoning map 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. **(See 65 ILCS 5/11-13-19)**

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

40-3-3 DETERMINING TERRITORIAL LIMITS. 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 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 centerline.
(2)	Lot line	Such lot line.
(3)	Railroad tracks	Right-of-way line of such track.

(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) All territory (including bodies of water) that lies within the zoning jurisdiction of this City, but which is not shown on the zoning map as being located within any district, shall comply with the zoning regulations of the most restrictive adjoining district.

40-3-4 ANNEXED TERRITORY. Any territory hereafter annexed to the City shall automatically be in the R-1, Single-Family Residence District until duly changed by an amendment to this Code; except that the City Council, with the advice of the Zoning Board of Appeals, may annex any

territory as any other zoning district or districts herein established if all legal requirements for zoning the property at the time of the annexation and the requirements for amending the Zoning Map by the extension of the zoning district provisions are met.

40-3-5 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.

(A) **Agricultural Exemption.** The provisions of this Code shall not be interpreted or administered so as to restrict the erection, maintenance, alteration, or extension of buildings (including farmhouses) or structures used or intended to be used for agricultural purposes on agricultural land except that such buildings or structures shall be required to conform to applicable setback regulations. Whenever a portion of a tract of land ceases to be used primarily for agricultural purposes, all pertinent provisions of this Code shall apply to that portion.

40-3-6 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 Zoning Board, following consultation with the Zoning Administrator finds that the unlisted use is similar to and compatible with the listed uses, they may make a written ruling to that effect and classify the use as a use permitted by right. The Board's decision shall become a permanent public record.

40-3-7 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. Applications for temporary use permits shall be treated in the same way as applications for special use permits. A temporary use permit shall be valid for not more than **one (1) year** unless it is properly renewed **(See Section 40-10-29)**.

40-3-8 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise:

(A) Only one principal building or structure shall be permitted on any residential lot; and

(B) No portion of any minimum area, minimum dimensions, or minimum yards required for any lot, structure, or use shall be counted to satisfy the minimum area, dimensions, or yards requirements for any other lot, structure or use.

(See Sec. 40-8-2)

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

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

40-3-11 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS. Except as specifically provided otherwise, in the Central Business district and in all residential zoning districts, 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 setback on that block shall be the average of the existing front set-backs; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

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

	FEATURES	**MAXIMUM INTRUSIONS**
(A)	Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B)	Fire escapes	Four (4) feet.
(C)	Patios	Six (6) feet.
(D)	Porches and stoops, if unenclosed, unroofed, and at no higher than two (2) steps above ground level	Six (6) feet.
(E)	Balconies, decks, porches	Four (4) feet.
(F)	Canopies, roof overhangs	Four (4) feet.

40-3-13 HEIGHT - EXCEPTIONS.

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

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines and a line joining these street lines at points **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. **(See Figure 1 at the end of this Code.)**

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

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

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

(1) Illinois Private Sewage Disposal Licensing Act, **(225 ILCS 225/1 through 225/23)** as amended from time to time; and

(2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the Illinois Department of Public Health, as amended from time to time; and

(3) Pertinent, current regulation issued by the Illinois Environmental Protection Agency; and

(4) Applicable codes and regulations of the City, particularly the Subdivision Code and the Utilities Code.

The Administrator shall not issue any Certificate of Zoning Compliance unless, following consultation with the City Engineers, he is satisfied that these requirements will be met.

40-3-15 ACCESSORY USES - PERMITTED.

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

(1) meets the definitions of "accessory use" found in Section 402-2;

(2) is accessory to a principal structure or use that is allowed in a particular zoning district as permitted or special use; and

(3) is in compliance with restrictions set forth in Section 40-3-16.

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

40-3-16 ACCESSORY USE RESTRICTIONS.

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

(B) **Schedule.** 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; as provided in **Section 40-3-17** at the conclusion of the Code.

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

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

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

40-3-18 - 40-3-19 RESERVED.

DIVISION II - PLANNED DEVELOPMENTS

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

(A) common open space is reserved;

(B) various housing types and other structures and uses may be mixed and/or

(C) overall average density does not exceed the usual zoning district limit.

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

(A) to provide a regulatory mechanism whereby the City can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits;

(B) to permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project;

(C) to preserve the natural topography, scenic features, mature trees and historic structures existing on sites proposed for development;

(D) to encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;

(E) to ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein;

(F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

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

40-3-23 DISTRICTS WHERE ALLOWED. Planned Developments may be built in any Zoning District, but only upon the issuance of a special use permit by the City Council after a hearing before the Zoning Board of Appeals. **(See Sec. 40-10-24 et seq.)**

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

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

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

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

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

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

(A) Filing development plan with the Zoning Administrator;

(B) Review of plans by Plan Commission, if any;

(C) Provision by the developer of adequate assurance for the completion of required improvements as per the development plan and subdivision regulations;

(D) Recommendation by Plan Commission; if any;

(E) Public hearing by the Board of Appeals as per the requirements of **Article X - Administration**;

(F) Recommendation of the Board of Appeals regarding approval/rejection of the development plan;

(G) Recording of development plan with the County Recorder of Deeds;

(H) Approval of City Council.

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

40-3-26.1 WRITTEN DOCUMENTS.

(A) Legal description of the total site proposed for development;

(B) Names and addresses of all owners of property within or adjacent to the proposed Planned Development;

(C) Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;

(D) Development schedule indicating the approximate date when construction of the PD or stages of the PD can be expected to begin and to be completed;

(E) Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PD, such as land areas, dwelling units, etc.

(F) Data indicating:

(1) total number and type of proposed dwelling units;
(2) gross and net acreage of parcel;
(3) acreage of gross and usable open space; and
(4) area of any commercial uses.

40-3-26.2 GRAPHIC MATERIALS.

(A) Existing site conditions, including contours at **ten (10) foot** intervals and locations of watercourses, flood plains, unique natural features, and wooded areas;

(B) Proposed lot lines and plot designs;

(C) Proposed location, size in square feet and general appearance of all existing and proposed buildings (both residential and non-residential) and other structures and facilities;

(D) Location and size in acres or square feet or all areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;

(E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate);

(F) Existing and proposed pedestrian circulation system, including its relationship to the vehicular circulation system and proposed treatments of points of conflict;

(G) Existing and proposed utility systems, including sanitary sewers, storm sewers, and water, electric, gas and telephone lines;

(H) General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;

(I) Enough information on land areas adjacent to the proposed PD to indicate the relationship between the proposed development and existing and proposed adjacent areas;

(J) Any additional information required by the City to evaluate the character and impact of the proposed PD.

(K) Appropriate seals of the licensed surveyor, engineer or architect.

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

(A) The extent to which the proposed development is consistent with the Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances;

(B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations.

(C) Whether the proposed design of the PD makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth;

(D) The compatibility of the proposed PD with adjacent properties and surrounding area; and

(E) Any other reasonable criteria that the Zoning Board of Appeals may devise.

40-3-28 DECISION BY BOARD OF APPEALS. The Zoning Board of Appeals shall not recommend any PD unless:

(A) The developer has posted a performance bond or deposited funds in escrow in the amount of the City Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and

(B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and

(C) The proposed PD, as evidenced by the Development Plan, complies with all applicable codes, regulations and ordinances. **(Deviations to the extent permitted under Section 40-3-27 shall not be deemed as noncomplying.)**

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

(A) Minor changes, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.

(B) All other changes shall require a public hearing before the Board of Appeals.

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

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

(A) The special-use permit shall be automatically revoked; and

(B) any zoning permits shall automatically become null and void; and

(C) all regulations applicable before the PD was approved shall automatically be in full effect.

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

ARTICLE IV - REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I - AGRICULTURAL DISTRICT (A-1)

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

40-4-2 SPECIAL RESTRICTIONS.

(A) In the "A-1" District, only **one (1)** principal dwelling shall be situated on any **one (1) lot**.

(B) No structures or enclosed pens in which livestock, fowl, and/or animals are kept shall be closer than **two hundred (200) feet** to any residential or business district.

40-4-3 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "A-1" District shall conform to the following requirements:

(A)	Minimum Lot Area	3 Acres
(B)	Minimum Lot Width at the established building line	150 feet
(C)	Minimum Lot Depth	200 feet
(D)	Minimum Setbacks	
	(1) From front lot line	50 feet
	(2) Total for both side yard lines	25 feet
	(3) From either side lot line	10 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	50 feet
(E)	Maximum Building Height (Does not apply to accessory agricultural structures)	35 feet

40-4-4 PERMITTED USES. The following uses shall be permitted in the "A-1" - Agricultural District:

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Cemeteries.

Government uses of this City.

Nurseries, greenhouses, temporary produce stands.

Parks and playgrounds.

Single-family dwellings. **(See Art. V)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

Accessory uses in accordance with **Section 40-3-13**.

40-4-5 SPECIAL USES. The following uses may be allowed by special-use permit in accordance with **Section 40-10-24, et seq.** of this Code in the "A-1" - Agricultural District:

Adult entertainment.
Agricultural implement sales.
Amusement facilities, such as go-cart tracks, archery ranges, etc.
Animal hospitals.
Airports.
Churches and other places of formal worship.
Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.
Golf courses, all sizes and types.
Home occupations. **(See Sec. 40-5-7)**
Kennels, commercial.
Manufactured and modular homes.
Nursing homes, sanitariums.
Oil/gas well. **(See Sec. 40-5-19)**
Travel trailer parks (not including manufactured home parks). **(See Sec. 40-5-2)**
Truck trailers.
Utility substations.
Wind turbines.

40-4-6 RESERVED.

DIVISION II - SINGLE-FAMILY DISTRICTS

40-4-7 "SR-1" -SINGLE-FAMILY RESIDENCE DISTRICT (LARGE LOT). In the "SR-1", Single-Family Residence District, land is principally used for or is best suited for detached, single-family dwellings and related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing single-family neighborhoods, and to promote the development of subdivisions offering a range of new conventionally constructed single-family housing. Other types of residences (mobile homes, manufactured mobile homes, duplexes, apartments, etc.) are prohibited uses in this district.

40-4-8 SPECIAL RESTRICTIONS. In the "SR-1" District, only **one (1)** principal building (single-family dwelling) shall be situated on any **one (1) lot**.

40-4-9 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "SR-1" District shall conform to the following requirements:

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

40-4-10 PERMITTED USES. The following uses shall be permitted in the "SR-1" - Single-family Residential District:

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Single-family dwellings.

Accessory uses in accordance with **Sections 40-3-15** and **40-3-16**.

Government uses of this City.

40-4-11 SPECIAL USES. The following special uses may be allowed by special-use permit in accordance with **Section 40-10-24 et seq.** of this Code in the "SR-1" District:

Bed and breakfast establishments.

Cemeteries and mausoleums in conjunction therewith.

Churches and other places of formal worship.

Community residences.

Day care or nursery schools.

Government uses other than those of the City.

Home occupations. **(See Section 40-5-7)**

Private recreational areas or campus, when not operated for profit.

Public libraries, community centers or grounds.

Railroad rights-of-way and trackage.

Schools: Public, denominational or private, elementary or high, including playgrounds, garages for school buses, and athletic fields auxiliary thereto.

Utilities: Electrical substations, gas regulator stations, other public utility distribution facilities, plants and pumping stations.

40-4-12 - 40-4-15 RESERVED.

DIVISION III - SINGLE-FAMILY DISTRICT (SR-2)

40-4-16 "SR-2" - SINGLE-FAMILY DISTRICT (SMALL LOT). The "SR2", Single-Family Residence District encompasses areas suitable for single-family dwellings as well as related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing subdivision offering a range of new single-family housing. Other types of residences (duplexes, and apartments) are permitted in this district by special use.

40-4-17 SPECIAL RESTRICTIONS. In the "SR-2" District, only **one (1)** principal building (single-family dwelling) shall be situated on any **one (1) lot**.

40-4-18 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "SR-2" District shall conform to the following requirements:

(A)	Minimum Lot Area	7,000 sq. ft.
(B)	Minimum Lot Width at the established building line	50 feet
(C)	Minimum Lot Depth	100 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) For both side yard lines	20 feet
	(3) From either side lot line	7.5 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	25 feet

(E)	Maximum Building Height	35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit	2 spaces
(G)	Maximum Percent Coverage Per Lot	25%

40-4-19 PERMITTED USES. The following uses shall be permitted in the "SR-2" - Single-family Residential District:

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-5-12** are met.

Any use permitted in the "SR-1" District. **(Section 40-4-10)**

Single-family dwellings.

Accessory uses in accordance with **Sections 40-3-15 and 40-3-16**.

Government uses of this municipality.

40-4-20 SPECIAL USES. The following uses may be allowed in the "SR-2" District by special-use permit in accordance with **Section 40-10-24**, to-wit:

Apartments.

Bed and breakfast.

Churches and other places of formal worship.

Community residence, small.

Duplexes.

Government uses other than those of the City.

Home occupations. **(See Section 40-5-7)**

Modular homes.

Private recreational areas or campus, when not operated for profit.

Public libraries, community centers or grounds.

Railroad rights-of-way and trackage.

Schools: Public, denominational or private, elementary or high, including playgrounds, garages for school buses, and athletic fields auxiliary thereto.

Utilities: Electrical substations, gas regulator stations, other public utility distribution facilities, plants and pumping stations.

40-4-21 – 40-4-30 RESERVED.

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

40-4-31 "MR-1" -MULTIPLE-FAMILY RESIDENCE DISTRICT. The "MR-1", Multiple-Family Residence District is established to stabilize and conserve existing neighborhoods that predominantly consist of single-family and multiple-family dwellings and to promote the development of comparable new areas in order to accommodate all persons desiring this type of residential environment.

40-4-32 LOT AND BUILDING REQUIREMENTS. Every principal building in the "MR-1" District shall conform to the requirements indicated below:

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

(A)	Minimum Lot Area	5,500 sq. ft. 4,000 sq. ft. per unit, whichever is greater.
(B)	Minimum Lot Width at the established building line	50 feet
(C)	Minimum Lot Depth	100 feet

(D)	Minimum Setbacks		
	(1)	From front lot line	15 feet
	(2)	For both side yard lines	7 feet
	(3)	From either side lot line	10 feet
	(4)	From rear lot line	20 feet
	(5)	From side yard abutting street	25 feet
(E)	Maximum Building Height		35 feet
(F)	Minimum Off-Street Parking Per Dwelling Unit		2 spaces
(G)	Maximum Percent Coverage Per Lot		30%

40-4-33 PERMITTED USES. The following uses shall be permitted in the "MR-1" - Multiple-Family Residential District:

Any use permitted in the "SR-1" District. **(Section 40-4-10)**
Bed and breakfast.
Community residence, small.
Duplex (two-family dwellings).
Modular homes. **(See Section 40-2-2)**

40-4-34 SPECIAL USES. The following uses may be allowed in the "MR-1" District by special-use permit in accordance with **Section 40-10-24**:

Any special-use in the "SR-1" District. **(See Section 40-4-11)**
Day care center.
Multiple family dwelling (triplex, etc.).
Nursing homes.
Utility substations.

40-4-35 - 40-4-36 RESERVED.

DIVISION V - RESERVED

40-4-37 - 40-4-45 RESERVED.

DIVISION VI – RESERVED

40-4-46 - 40-4-55 RESERVED.

DIVISION VII – RESERVED

40-4-56 - 40-4-62 RESERVED.

DIVISION VIII - CENTRAL BUSINESS DISTRICT (B-1)

40-4-63 DESCRIPTION. The "B-1", Central Business District encompasses the area adjacent to and surrounding the historic "Square;" a concentrated pedestrian-oriented commercial area of this City. Stores and other facilities providing a wide range of retail goods and services to the general public may be located within this district.

40-4-64 USE RESTRICTIONS. The following use restrictions shall apply:

(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) **No Drive-Ins.** No commercial or service establishment shall offer goods or services direct to customers waiting in parked motor vehicles or sell food or beverages for consumption on the premises in parked motor vehicles. Thus, service stations, drive-in restaurants, etc. are excluded from this district.

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

(F) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, or the Old McLeansboro Cemetery, 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, or cemetery, shall be installed.

(H) **Signs. See Article VI.**

(I) **Structures/Building.** Steel frame and metal construction, commonly known as pole barns, are expressively prohibited in the "B-1" Central Business District.

(J) **New Buildings.** To create a visually unified "streetwall," buildings shall be no more than **thirty percent (30%)** taller or **thirty percent (30%)** shorter than the average building height on the block within the use area.

(K) **Gutters and Downspouts.** Gutters and downspouts may be visible to public view only if incorporated into the façade and/or roofline as a decorative architectural element.

40-4-65 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "B-1" Central Business District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	None
(B)	Minimum Lot Width at established building line	30 feet
(C)	Minimum Lot Depth	None
(D)	Minimum Setbacks	Generally none required except as necessary to achieve compliance with applicable off-street parking and loading requirements. (See Article VII) However, any lot abutting a residential district shall conform to the front and side setback requirements of such district.
(E)	Maximum Building Height	50 feet

40-4-66 PERMITTED USES. Provided all the use restrictions of this district **(See Section 40-4-64)** are observed, the following uses are permitted:

Auditoriums, meeting rooms, and other places of assembly.
Clubs and lodges.
Commercial establishments, except those listed in **Section 40-4-67**.
Government uses of this City.
Libraries, museums, and art galleries.
Offices.
Health Club/gymnasium.
Photographers.
Theaters/movie theaters, with the exception of adult uses.
Service establishments, except those listed in **Section 40-4-67**.
Accessory uses in accordance with **Sections 40-3-15 and 40-3-16**.

40-4-67 SPECIAL USES. Provided all the use restrictions of this district **(See Section 40-4-53)** 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.

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.

Churches and other places of formal worship.
Community residence, large.
Dwelling units, if located above the first story.
Governmental uses other than those of this City.
Medical/dental clinics.
Quick shops.
Utility substations.

40-4-68 - 40-4-69 RESERVED.

DIVISION IX - HIGHWAY BUSINESS DISTRICT (B-2)

40-4-70 DESCRIPTION. The "B-2" Highway Business District is intended to accommodate and regulate strip commercial developments and compatible uses. Since such businesses--both retail and wholesale--draw their patrons primarily from the motoring public, they typically require direct access to major streets and large lots for off-street parking and loading.

40-4-71 USE RESTRICTIONS.

(A) **Repairs Indoors.** All repair and maintenance services shall be conducted within completely enclosed structures. Storage areas may be open to the sky but shall be enclosed by walls or solid fences at least **eight (8) feet** high.

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

(C) **Screening.** Along the side and rear lot lines of any lot abutting any residential district, or cemetery, 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.

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

(E) **Signs. See Article VI.**

40-4-72 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "B-2" Highway Business District shall conform to the requirements indicated below:

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	50 feet
	(2) Total for both side yard lines	50 feet
	(3) From either side lot line	20 feet
	(4) From rear lot line	25 feet
	(5) From side yard abutting street	50 feet
(E)	Maximum Building Height	45 feet
(F)	Maximum Percent Coverage Per Lot	50%

40-4-73 PERMITTED USES. Provided all the use restrictions of this district **(See Section 40-4-71)** are observed, the following uses are permitted:

Any use permitted in the "B-1" district.

Churches and other places of formal worship.

Clubs and lodges.

Commercial establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

-bowling alleys
-furniture and appliance sales
-greenhouses
-lumber and building supplies sales
-miniature golf courses
-manufactured home and recreational vehicles sales
-motor vehicles sales.

Government uses of this City.

Offices.

Service establishments, any type, including drive-in facilities. Such uses as the following are especially appropriate in this district:

-animal hospitals
-banks and other financial institutions
-motels
-motor vehicles services
-restaurants
-service stations **(See Sec. 40-5-4)**.

Temporary produce stands.

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

40-4-74 SPECIAL USES. Provided all the use restrictions of this district are observed, the following uses may be allowed by special-use permit:

Freight and bus terminals, and related transportation facilities.

Governmental uses other than those of this City.

Microbreweries.

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

Taverns.

Utility substations. **(See Section 40-5-10)**

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

40-4-75 RESERVED.

DIVISION X - INDUSTRIAL DISTRICT

40-4-76 "I-1" - INDUSTRIAL DISTRICT. The "I-1", Industrial District is intended to provide for areas where light industry, research facilities, warehouses, and wholesale businesses may locate without detriment to the remainder of the community. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

40-4-77 USE RESTRICTION.

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

(B) **Activities Enclosed.** All production, processing, cleaning, servicing, testing or repair activities shall be conducted within completely enclosed buildings. Storage areas may be open to the sky but shall be enclosed by walls or fences (whether solid or chain-link), including gates, at least **eight (8) feet** high.

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

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

(E) **Signs. See Article VI.**

40-4-78 LOT AND STRUCTURE REQUIREMENTS.

(A)	Minimum Lot Area	20,000 sq. ft.
(B)	Minimum Lot Width at the established building line	125 feet
(C)	Minimum Lot Depth	150 feet
(D)	Minimum Setbacks	
	(1) From front lot line	25 feet
	(2) From any side lot line	25 feet
	(3) From rear lot line	25 feet
	(4) From side yard abutting street	50 feet
(E)	Maximum Structure Height	60 feet
(G)	Maximum Percent Coverage Per Lot	40%

40-4-79 PERMITTED USES. Provided all the use restrictions of the "I-1" Industrial District are observed, the following uses are permitted: **(See Section 40-4-77)**

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

Freight and bus terminals and related mass transportation facilities.

Government uses of this City.

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

Service stations. **(See Section 40-5-4)**

Towers, structures and other facilities designed or intended to be used for the support, enclosure, shelter or protection of distribution equipment utilized by entities engaged in the transmission of telephone messages including but not limited to cellular, personal communications services, special mobile radio transmitters and any other personal wireless service.

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

Utility substations. **(See Section 40-5-10)**

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

40-4-80 SPECIAL USES. The following uses may be permitted as special-uses in this District by special-use permit in accordance with **Section 40-10-24**, to-wit:

Any permitted use in the "B-1" or "B-2" District. **(See Sections 40-4-66 and 40-4-73)**

Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable gases, or liquids, or live animals.

Government uses other than those of this City.

Junk Yards. **(See Section 40-5-6)**

Research and development facilities involving explosives, or flammable liquids or gases.

40-4-81 - 40-4-83 RESERVED.

DIVISION XI – PRESERVATION DISTRICT

40-4-84 STATEMENT OF INTENT. The preservation district is established to recognize that changes in residential, business and industrial land use may threaten the property and improvements of the City which are the foundation of its traditions and stability. In the interest of public health, safety and general welfare and to advance sound planning practices, it is necessary that the properties and improvements having special historical, architectural, community or aesthetic significance be preserved, enhanced and restored to use. The Preservation District designation is an overlay district and shall impose appropriate regulations on the designated property in addition to the requirements contained in the basic underlying zoning district.

40-4-85 USE RESTRICTIONS - DESIGN STANDARDS. All property within the designated areas shall retain the exterior appearance of the period in which it was built or constructed and any new construction, alternations or repairs in the District shall be designed and constructed with essentially the same exterior appearance as was the original structure that was located on the premises. All commercial property within the District shall retain, insofar as possible, the interior appearance of the period in which it was built and any new construction, alterations, additions, remodeling or restoration to the interior of any commercial building shall be designed and constructed so as to give the appearance of a historic interior.

The design standards for the regulation of alterations, construction and demolition in the Preservation District shall include the following:

(A) **Height.** The height of the proposed structure or additions or alternations should be compatible with the architectural style of the building, or with surrounding structures.

(B) **Proportions.** The proportion of the structure's front façade should be compatible with the architectural style of the building, or nearby structures.

(C) **Proportions of Openings into the Facility.** The proportions and relationships between doors and windows should be compatible with existing structures.

(D) **Roof Shapes.** The design of the roof should be compatible with the architectural style of the building, or adjoining structures.

(E) **Relationship of Building Mass and Space.** The relationship of a structure to the open space between it and adjoining structures should be compatible.

(F) **Landscape and Appurtenances.** Landscaping and the use of appurtenances should be sensitive to the individual structures, its occupants, and their needs. Further, the landscape treatment shall be compatible with surrounding structures and landscapes.

(G) **Scale of Structure.** The scale of the structure should be compatible with surrounding structures.

(H) **Directional Expression of Front Elevation.** Street facades should blend with other structures with respect to directional expression, when adjacent structures have a dominant horizontal or vertical expression, this should be carried on and reflected.

(I) **Architectural Details.** Architectural details and materials should be incorporated as necessary to relate the new with the old and to preserve and enhance the inherent characteristics of the area.

(J) **Shuttering.** Unused windows and/or doors of buildings which must be covered, will be shuttered in such a way as to ensure the architectural integrity of the building, and be compatible with the surrounding structures.

(K) **Façade Design.** Any part of a rear or side façade that is visible from any street shall provide the same rooflines, building materials, and colors as the front façade.

(L) **New Structures.** New structures in the District shall be compatible with the architectural styles and designs within the District.

40-4-86 REGULATION OF ALTERATIONS, CONSTRUCTION AND DEMOLITION.

(A) **Certificate of Appropriateness.** Any alteration, construction or demolition work on property within the district shall be issued a certificate of appropriateness by the Zoning Board of Appeals prior to the work commencing. No building permit shall be issued until the certificate of appropriateness has been issued to the applicant, who shall be the property owner or the owner's agent. A certificate of appropriateness shall be valid for a period of **one (1) year** from the date of issuance.

(B) An application for a certificate of appropriateness shall be filed with the Zoning Board of Appeals and reviewed by the Board within **thirty (30) days** of receipt. In reviewing the application, the Committee shall determine if the proposed work is in accord with the design standards established for the district in which the property is located. The Committee shall either approve the application as submitted, approve the application with modifications, deny the application, or table the application. If the applicant does not agree with the Committee's decision to modify an application, the application shall be denied.

The Committee can table an application to a subsequent meeting which shall be held within **thirty (30) days** and provide notice of the date of the meeting to the appropriate property owners.

Written notice of the Committee's action shall be provided to the applicant with **seven (7) days** following the Committee's determination and shall be accompanied by a certificate of appropriateness in the case of an approval. A denial of the application shall be accompanied by a statement of the reasons for the denial that shall include recommendations concerning amendments to the application that would result in a reconsideration of the denial.

(C) **Appeal of Denied Application.** An applicant whose application for a certificate of appropriateness is denied may appeal the Committee's decision in writing to the City Council.

(D) The City Council will consider the appeal within **thirty (30) days** making the appeal. The Council may affirm or modify the decision after consideration of the facts. The Council decision shall be based solely on a determination whether the proposed work is in accord with the design standards established for the district in which the property is located. If the City Council concurs with the decision of the Zoning Board of Appeals, the decision shall be final.

40-4-87 CERTIFICATE OF ECONOMIC HARDSHIP. An applicant whose application for a certificate of appropriateness has been denied may apply for a certificate of economic hardship with **thirty (30) days** of denial. An application for a certificate of economic hardship shall include the information on the proposed work contained in the denied application for a certificate of appropriateness. The Zoning Board of Appeals shall schedule a public hearing on the application for a certificate of economic hardship and provide notice in the same manner as for a certificate of appropriateness. The applicant for a certificate of economic hardship shall present the following information to the Committee prior to the date of the public hearing:

(A) Estimate of cost of the proposed alteration, construction or demolition and an estimate of any additional cost that would be incurred to comply with the recommendations of the Zoning Board of Appeals for changes necessary for the approval of a certificate of appropriateness.

(B) Reports from professionals with experience in rehabilitation as to the structural soundness of the structure and its suitability for rehabilitation, and if applicable, the economic feasibility of rehabilitation or other use of the structure.

(C) Estimated market value of the property in its current condition and after completion of the proposed work, including any appraisals obtained by the applicant or owner in connection with the purchase, financing or ownership of the property.

(D) If the property is income producing, the annual gross income of the property for the previous **two (2) years**, maintenance and operating expense for **two (2) years**, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.

(E) Any other information which the Zoning Board of Appeals considers necessary to determine if the property owner will experience economic hardship by not being issued a certificate of appropriateness for work specified in the application.

(F) Any plans or other considerations of the owner as to alternative uses of the property or alternative alterations, construction or scope of demolition work.

The Zoning Board of Appeals shall within **fifteen (15) days** of the completion of the public hearing deny the application or delay final action for a period not to exceed **thirty (30) days** to investigate possible alternative plans for the property. If the application is denied, the applicant may appeal the decision to the City Council, which will consider the appeal within **thirty (30) days** of the receipt. The City Council shall either affirm the Board's decision or send or refer the application back to the Board for the investigation of possible alternative.

40-4-88 MAINTENANCE AND SAFETY. Nothing in this Division shall be construed to prevent the ordinary maintenance or repair of any interior or exterior architectural feature on a landmark or an historic or preservation site which does not involve a change in design, material, or the visual appearance thereof, or to prevent any alteration or demolition which may be required to protect public safety.

40-4-89 PENALTY. Any person who undertakes or causes an alteration, construction, demolition, or removal of any property with the Preservation District without a certificate of appropriateness shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than **Seventy-Five Dollars ($75.00)** or more than **Seven Hundred Fifty Dollars ($750.00)**. Every day such violation shall continue to exist shall constitute a separate violation.

40-4-90 - 40-4-94 RESERVED.

DIVISION XII – FLOOD PLAIN DISTRICT

40-4-90 "O-PF" – FLOOD PLAIN OVERLAY DISTRICT. The "O-FP", Flood Plain Overlay District delineates areas in the vicinity of watercourses and tributaries in the Municipality subject to special requirements.

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

(A) Uses which inherently have low flood damage potential and

(B) to other uses allowed in the primary zoning districts provided appropriate protective measures have been taken.

40-4-91 PERMITTED AND/OR SPECIAL USES. This overlay district has no effect on the classification, whether permitted, special, or prohibited, of uses in the primary zoning districts. Rather, this overlay district imposes additional restrictions on both permitted and special uses.

40-4-92 ADDITIONAL RESTRICTIONS. All uses, whether permitted or special, that are located in the area covered by the "OFP", Overlay District shall not only meet all the applicable requirements of the primary district, but shall also be adequately protected against flood damage. To assure such protection, the Administrator, following consultation with technically qualified persons, may require as necessary:

(A) Anchorage or addition of weight to structures to resist flotation;

(B) installation of watertight doors and bulkheads;

(C) use of special paints, membranes, mortars so as to reduce seepage through walls;

(D) installation of pumps to lower water levels in structures or to relieve external foundation wall flood pressure;

(E) reinforcement of walls to resist rupture or collapse caused by water pressure or floating debris;

(F) installation of valves or controls on sanitary and storm drains so that the drains can be closed to prevent backup of sewage or storm runoff into structures;

(G) location of electrical equipment and appliances above the level of the regulatory flood elevation;

(H) location of storage facilities for chemicals, explosives, flammable liquids, toxic substances, etc., above the regulatory flood elevation;

(I) filling and earth-moving to raise the level of proposed building site above the regulatory flood elevation; and/or

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

ARTICLE V - SUPPLEMENTARY ZONING REGULATIONS

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 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 requirements of this Code and the City Code. The requirements of paragraphs (A), (C), and (D) do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicle sales lot.

(A) Not more than **two (2) trailers**, or other type recreational vehicle per dwelling shall be parked outside of an enclosed garage on any lot. All trailers or other type recreational vehicles shall be placed on a parking surface as defined in **Section 40-7-3(D)** of this Code and in conformity with **Section 40-7-5** of this Code.

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

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

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

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

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

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

40-5-3 BUFFER STRIPS, FENCES, WALLS AND HEDGES. Buffer strips, fences, walls or hedges used for any purpose shall, in all districts, conform to the following:

(A) Whenever a commercial, multi-family or industrial district abuts a residential district or is across a street, alley or similar obstacle from a residential district, a buffer strip of landscaping and/or other treatment shall be required. If a buffer strip is live landscaping, a temporary artificial screening shall be provided until such time as landscape screening reaches maturity. Width shall be **twenty (20) feet**, except that between areas zoned "I" and the designated zones, the width shall be **thirty (30) feet**.

Where an existing "SR-1" abuts a district requiring a buffer, the minimum setback from the buffer in that district requiring a buffer shall be **ten (10) feet** providing that a street does not come between the districts.

(B) No new permanent barbed wire or electrically charged fence less than **eight (8) feet** in height shall be erected or maintained anywhere except in connection with agricultural uses; when the agricultural use abuts a property line or a public right-of-way, the use of such fencing shall require the issuance of a Special Use Permit.

(C) No fence, wall, or other obstruction shall be erected on or within **three (3) feet** of any alley or public right-of-way; temporary barricades shall require the written permission of the Zoning Administrator.

(D) No fence, wall or other obstruction shall be erected in violation of the Illinois Drainage Code. **(See 70 ILCS Sec. 2-1 through 2-13)**

(E) No fence, wall or other obstruction shall exceed **eight (8) feet** in height in any district except the Industrial District (I) where the maximum height shall not exceed **ten (10) feet**; exemption, planting screen, in addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls, or other obstructions. **(See Section 40-3-13)**

(F) No fence, wall or other obstruction shall be erected in any front yard setback area, with the exception of landscape fences specifically approved by the Zoning Administrator. **(See Definition of Landscape Fence, Section 40-2-2)**

(G) No fence, wall or other obstruction shall be erected on or within **two (2) feet** of a property line without the mutual consent of the abutting property owners; in such instances, an applicant for an Initial Certificate of Zoning Compliance shall include on the application a statement to the effect that abutting property owners are aware of the type and proposed location of the fence, wall or other obstruction to be erected and have given their written consent.

(H) No fence, wall or other obstruction which completely encloses a lot shall be erected without the provision of a gate or similar type of moveable barrier for accessibility.

40-5-4 SERVICE STATIONS.

(A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.

(B) Every access way shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park, or playground, and at least **thirty (30) feet** from any intersection of public streets.

(C) Every device for dispensing or selling milk, ice, soft drinks, snacks, and similar products shall be located within or adjacent to the principal building.

(D) All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

(E) Whenever the use of a service station has been discontinued for **twelve (12) consecutive months** or for **eighteen (18) months** during any **three (3) year** period, the Administrator shall order that all underground storage tanks be removed or filled with material approved by the Fire Chief.

(F) A permanent curb of at least **four (4) inches** in height shall be provided between the public sidewalk and the gasoline pump island, parallel to and extending the complete length of the pump island.

40-5-5 NURSING HOMES AND GROUP HOMES.

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

(B) The 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 **one and one-half (1.5) acres**.

40-5-6 JUNK YARDS.

(A) No part of any junk yard--which includes any lot on which any **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 **eight (8) feet** high and of sufficient density to block the view from adjacent property.

40-5-7 HOME OCCUPATIONS.

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

(1) **Employees.** The use shall be conducted entirely within a dwelling or permitted accessory building and carried on by the inhabitants living there. No more than **one (1)** other individual may be employed who does not reside on the premises.

(2) **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.

(3) **Floor Space.** The total area used for the 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.

(4) **Sign Restrictions.** There shall be no exterior advertising other than identification of the home occupation by a sign which shall be attached to the dwelling or the accessory building and shall not exceed **three (3) square feet** in area and shall not be illuminated.

(5) **Exterior Storage.** There shall be no exterior storage on the premises of material or equipment used as a part of the home occupation.

(6) **Nuisances.** There shall be no offensive noise, nor shall there be vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line. All nuisances are prohibited.

(7) **Unlawful Storage.** There shall be no storage or use of toxic, explosive or other dangerous or hazardous materials upon the premises.

(8) **Parking Requirements.** A home occupation, including studios or rooms for instruction, shall provide off-street parking area adequate to accommodate needs created by the home occupation as prescribed in **Section 40-7-8**.

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

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

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

(C) **Activities Not Covered.** A home occupation permit is not necessary for activities employing only members of the household such as clothing alterations, telecommuting, etc., involving no outside sign, little or no increase in traffic, and with only occasional visits by members of the public to the home. As used in this Section, "telecommuting" means working in the home by using a computer terminal connected to a central office or central computer.

40-5-8 SCHOOLS.

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

Type of School	Minimum Lot Area
Nursery, Day Care Center	**One hundred (100) square feet** of fenced outdoor play area per child.
Other (elementary, junior high, senior high)	As required by State law **(Ill. Comp. Stat., Chap. 105, Sec. 5/35-8)** -- normally **four (4) acres**, plus **one (1) additional acre** for every **one hundred fifty (150) students** in excess of **two hundred (200)**.

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

40-5-9 SWIMMING POOLS.

(A) Every in-ground swimming pool, whether public or private, shall be enclosed by a wall or fence at least **four (4) feet** in height and shall have a gate that shall be locked when the pool is not in use. An above-the-ground pool, **four (4) feet** or higher, need not have a fence with a gate, so long as the ladder is removed when not in use.

(B) No private swimming pool shall be located in any front yard or closer than **ten (10) feet** to any side or rear lot line.

(C) All lights used to illuminate any swimming pool shall be arranged or shielded so as to confine direct light rays within the lot lines to the greatest extent possible.

40-5-10 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 dimension 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, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. 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.

40-5-11 KENNELS.

(A) Kennels shall be permitted only in the "A-1" District.

(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.

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

40-5-12 AGRICULTURAL ACTIVITIES.

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

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

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

40-5-13 LIGHTING CONTROLS. Any light used for the illumination of signs, swimming pools, or for any other purpose shall be arranged so as to confine the direct light rays away from neighboring residential properties and away from the vision of passing motorist.

40-5-14 PUBLIC BUILDINGS. In any district where municipally owned or other publicly owned buildings are permitted, the following additional requirements shall be met:

(A) In any residential or conservation district, all municipal or other publicly owned buildings shall be located at least **twenty-five (25) feet** from all property lines.

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

40-5-15 CHURCHES AND HOUSES OF FORMAL WORSHIP. The following restrictions shall apply to churches no matter if they are permitted uses or special uses:

(A) **Lot Size.** The minimum size of the lot or tract shall not be less than **two (2) acres** and have a minimum frontage on a public street and at the building line of **one hundred fifty (150) feet**.

(B) **Commercial and Residential Uses.** No part of a church or building for religious worship or accessory building shall be used for commercial or residential purposes, except that **one (1)** parsonage may be permitted on the same lot or tract provided the parsonage is located no more than **seventy-five (75) feet** from the principal building for religious worship.

(C) **Property Lines.** Each principal building shall be located at least **twenty-five (25) feet** from all property lines and shall meet all other applicable requirements of the Zoning Code.

(D) **Accessory Buildings.** Accessory buildings shall meet all applicable requirements of the Zone District.

(E) **Accessory Uses.** Permitted accessory uses and functions shall be directly related to and an integral part of the customary religious worship activities except as otherwise provided by applicable provisions. **(See 805 ILCS Sec. 110/0.01 et seq.)**

40-5-16 STORAGE CONTAINERS. It shall be unlawful to locate in this City an accessory use known as a storage container consisting of either a railroad or train car, a truck body or shell or a truck trailer, licensed or unlicensed, on any lot in the City, unless the lot is in a zoned commercial or industrial district. All containers shall be closed and be secured when not in use. They shall meet all setbacks prescribed for accessory uses and located on a permanent foundation. The Zoning Administrator may submit all applications for a "storage unit" to the Zoning Board of Appeals if he feels that the unit is not consistent with this Section. **(See Section 40-3-13 for height limitations.)**

40-5-17 OUTDOOR WOOD FURNANCES (Referred to as: OUTDOOR WOOD BOILERS OR OUTDOOR WOOD-FIRED HYDRONIC HEATERS OR HYDRONIC HEATERS). An outdoor wood-fired hydronic heater may be installed and used only in accordance with all of the following provision:

(A) The outdoor wood-fired hydronic heater shall not be installed and used in an area zoned Preservation Overlay, or in the zoned areas of R-1 and R-2, unless the heater meets the Phase II emission standards, as set forth in Sections 3 L-Q below.

(B) The outdoor wood-fired hydronic heater shall not be used to burn pressure treated wood, painted wood, particleboard, household refuse, or yard waste.

(C) If neither Phase I nor Phase II emission standards as set forth in Sections 3 L-Q of this Ordinance are met by the outdoor wood-fired hydronic heater, then the heater shall not be located

within **five hundred (500) feet** of the nearest residence which is not on the same property as the wood-fired hydronic heater.

(D) Outdoor wood-fired that meet the Phase I emission standards, as set forth in Section 4 of this regulation, shall be located at least **three hundred (300) feet** from the nearest residence which is not on the same property as the wood-fired hydronic heater.

(E) Outdoor wood-fired hydronic heaters that meet the Phase II emission standards are not subject to the distance requirements noted in Sections 3C and 3D above.

(F) Outdoor wood-fired hydronic heaters shall have a chimney height which prevents the smoke from creating a nuisance for neighbors and which allows effective operation of the unit.

(G) The outdoor wood-fired hydronic heater shall be placed to the rear or side of the existing structure and shielded from view of neighboring properties.

(H) An installation permit shall be obtained from the City prior to installation of any outdoor wood-fired hydronic heater. For the purpose of this subsection, installation permits may include any of the following: zoning, electrical or mechanical permits.

(I) An outdoor wood-fired hydronic heater must be a minimum distance of **ten (10) feet** from any other structure or building.

(J) An outdoor wood-fired hydronic heater shall be installed a minimum distance of **ten (10) feet** from any property line.

(K) Installation must be consistent with the safety guidelines for overhead electrical power lines.

(L) For the purposes of this ordinance, "certified" shall mean the outdoor wood-fired hydronic heater that has been tested by an EPA accredited third party laboratory to verify that the unit meets Phase I or Phase II emissions standards listed herein.

(M) "Newly Installed Units" includes replacement units for existing units.

(N) Units that are relocated must obtain permits to meet zoning, electrical and mechanical inspection requirements.

40-5-18 <u>SILT FENCE.</u> In any district where sediment from sheet erosion may be expected to occur in small drainage areas due to construction, or other types of soil displacement, or where effectiveness is required for **one (1)** construction season or **six (6) months**, whichever is less, the following additional requirements shall be met:

(A) The maximum drainage area for overland flow to a silt fence shall not exceed **one-half (½) acre** per **one hundred (100) feet** of fence.

(B) All silt fences shall be placed as close to the contour as possible, with the ends extending upslope.

(C) Silt fence shall not be placed across areas of concentrated flows, such as streams or ditches.

(D) The maximum allowable slope distances contributing runoff to a silt fence are listed in the following table:

Slope (%)	Maximum Spacing along Slope (ft.)
25	50
20	75
15	125
10	175
<10	200

(E) When one row of fence is used, or it is the last in a series, the area below the fence must be undisturbed or stabilized.

(F) The height of a silt fence shall be a minimum of **twenty four (24) inches** above the original ground surface, entrenched to a minimum of depth of **six (6) inches**, with an additional **six (6) inches** extending along the bottom of the trench in the upslope direction.

(G) Fence posts shall be a minimum of **forty-eight (48) inches** long, with maximum spacing of **five (5) feet**. The posts shall be driven a minimum of **eighteen (18) inches** into

the ground or as approved by the engineer. Post spacing can be lengthened to **ten (10) feet** if wire or poly mesh backed silt fence is used.

(H) Silt fencing shall be removed once upslope areas have been permanently stabilized.

(I) Sediment deposits much be removed when the level of deposition reaches approximately one-half the height of the silt fence.

(J) Any sediment deposits remaining in place after the silt fence is no longer required shall be dressed to conform to the existing grade, a seedbed prepared, and the site vegetated.

40-5-19 OIL OR GAS WELL. An oil or gas well shall be a permitted special exception subject to the following conditions and/or standards.

(A) An oil or gas well shall not be located within the flight path of a runway facility of an airport.

(B) An oil or gas well shall not be located closer than **five hundred (500) feet** from a residential dwelling or **five hundred (500) feet** from any property line or right-of-way.

(C) An oil or gas well shall provide fencing and shrubbery around perimeter of the pump head and support frame.

(D) The Zoning Hearing Board may attach additional conditions pursuant to this Section, in order to protect the public's health, safety, and welfare. These conditions may include but are not limited to increased setbacks.

40-5-20 POSSESSION OF DOMESTIC FOWL - MAINTAINING AN ENCLOSED PEN. It shall be unlawful for a person, other than a veterinary hospital or pet shop, to own or keep multiple domesticated fowl within the City for commercial or resale purposes. Domestic fowl kept as pets must be adequately confined within a yard or other place surrounded by a wire netting or other fence sufficient to prevent their escape therefrom.

(A) The pen shall be maintained in a clean and wholesome manner.

(B) Any manure or other discharge from the birds shall be collected so as to prevent the spread of offensive smells or disease.

(C) Peafowl, guinea fowl and roosters are not permitted.

(D) The Zoning Hearing Board may attach additional conditions pursuant to this Section, in order to protect the public's health, safety, and welfare. These conditions may include limiting species and/or numbers of fowl kept.

ARTICLE VI - SIGN REGULATIONS

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

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

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

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

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

40-6-4 SPECIAL SITUATIONS.

(A) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any **one (1)** frontage a greater area of signs than would be permitted by application of the formula set forth above.

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

40-6-5 SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.

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

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

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

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

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

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

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

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

40-6-7 NONCONFORMING SIGNS. A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

40-6-8 RESTRICTIONS. Any nonconforming sign as defined in **Section 40-6-5** that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article VIII** of this Code; provided as follows:

(A) Merely changing the message displayed on a nonconforming sign shall not be construed as a prohibited alteration;

(B) Whenever any sign is nonconforming solely because it is appurtenant to a nonconforming commercial/industrial use located in the Agricultural District or in any residential district, said sign shall be treated in the same manner as it would be if it were appurtenant to a commercial/industrial use located in any Business District or in the Industrial District.

40-6-9 STRICTLY PROHIBITED SIGNS. Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the City:

(A) Mobile/Portable Marquees; except that they may be permitted as a temporary sign.

(B) Signs attached to trees, fences or public utility poles, other than warning signs posted by government officials or public utilities.

(C) Defunct Signs, including the posts or other supports therefor that advertise or identify an activity, business, product, or service no longer conducted on the premises where such sign is located.

(D) Roof-mounted signs, that project or protrude above the highest point of the roof. **(See Sec. 40-6-11)**

40-6-10 SIGNS PERMITTED IN ANY DISTRICT. Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the City. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance. **(See Sec. 40-6-2)**

(A) **Construction Signs** identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **twenty-four (24) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.

(B) **Real Estate Signs**, indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **six (6) square feet**; on other property, such signs shall not exceed **thirty-two (32) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.

(C) **Political Signs**, announcing candidates seeking public/political office and/or political issues and other pertinent information: In any Agricultural or Residential District, political signs shall not exceed **eight (8) square feet**; in other districts, such signs shall not exceed **thirty-two (32) square feet**. Political signs shall be removed within **seven (7) days** after the election to which they pertain, by the party responsible for their erection.

(D) **Garage Sale Signs**, advertising a garage or yard sale to be held on private residential property: Such signs shall not exceed **four (4) square feet**, and shall not be posted for longer than **five (5) days**.

(E) **Public Interest Signs and Street Banners**, publicizing a charitable or non-profit event of general public interest: In the Agricultural District, and in any Residential District, public

interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **sixty (60) days** before and **seven (7) days** after the event.

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

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

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

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

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

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

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

40-6-11 AGRICULTURAL; RESIDENTIAL DISTRICTS. No sign other than those listed in **Section 40-6-10** shall be erected in the Agricultural District or in any Residential District.

40-6-12 BUSINESS; INDUSTRIAL DISTRICTS. No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-6-2** and **40-6-10**.

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

(A) **Flush-Mounted Signs.** No flush-mounted (wall) sign shall:

(1) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or

(2) Extend above the roof line of the building to which it is attached.

(B) **Window Signs.** Signs permanently mounted in display windows shall not be debited against the sign area allowance of the particular establishment.

(C) **Projecting Signs.** No establishment shall display more than **one (1)** projecting sign on any street front. No projecting sign shall:

(1) Project above the roof line of the building to which it is attached; or

(2) Extend below a point **eight (8) feet** above the ground or pavement; or

(3) Project over a driveway or beyond the curb line of any public street; or

(4) Project more than **four (4) feet** from the building to which it is attached; or

(5) Extend to a point above **twelve (12) feet**.

(D) **Canopy or Marquee Signs.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs and shall meet the requirements of **Section 40-6-12(A)**. Signs suspended beneath a canopy or marquee shall be considered projecting signs and shall meet the requirements of **Section 40-6-12(C)**.

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

(1) No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point **ten (10) feet** above the ground or pavement shall be located closer than **ten (10) feet** from the public right-of-way line.

(2) The area of any freestanding sign, calculated in accordance with **Section 40-6-3** shall not exceed **one hundred (100) square feet**.

(3) When attached to its structural supports, no part of any freestanding sign shall extend more than **twenty (20) feet** above the ground or pavement.

(4) The length or width of any freestanding sign shall not exceed **twelve (12) feet**.

(F) **Billboards.** Billboards and other off-premises advertising signs are strictly prohibited in every district except the Highway Business (B-2) District. No billboard shall:

(1) Be stacked on top of another billboard; or

(2) Be located closer than **twenty-five (25) feet** to any lot line or any public right-of-way; or

(3) Be located closer than **five hundred (500) feet** from any other billboard on the same side of the roadway; or

(4) Extend more than **twenty (20) feet** above the ground or pavement;

(5) Exceed **three hundred (300) square feet** in area.

40-6-13 TEMPORARY SIGNS. Temporary signs shall not remain in place for a period of more than **thirty (30) days** except when the Zoning Administrator extends the time period for an additional **thirty (30) days**. Any further time extension shall thereafter be applied for through Board of Appeals and the Board of Appeals may grant such time extension as seems reasonable and necessary in compliance with this Article. A permit is required for all temporary signs. **(See Sections 40-3-7 and 40-10-29)**

ARTICLE VII - SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS

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

40-7-2 EXISTING PARKING/LOADING FACILITIES.

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

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

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.

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

40-7-3 PARKING DESIGN AND MAINTENANCE STANDARDS.

(A) **Spaces.**

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

(2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space.

(B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree parking** shall be at least **eighteen (18) feet** wide.

(C) **Access Way.**

(1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.

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

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

(4) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless **two (2)** one-way drives, each **twelve (12) feet** wide, are provided.

(5) The access way to every parking area located in any residential zoning district shall be at least **ten (10) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either

by **one (1)** two-way drive at least **twenty (20) feet** wide or by **two (2)** one-way drives, each at least **ten (10) feet** wide.

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

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

40-7-4 LANDSCAPING. In order to reduce heat and glare, to minimize blowing of dust and trash, and to reduce the oppressive visual effects of large open parking areas, landscaping shall be provided and maintained within every parking lot that contains **twenty (20)** or more parking spaces. Parking lots used exclusively for employees are hereby exempt from these requirements but shall be constructed of an approved dustless surface.

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

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

(1) Proposed type, amount, size and spacing of plantings, including trees, shrubbery and ground cover;

(2) Proposed size, construction materials, and drainage of landscaped islands; and

(3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation, and pedestrian movement.

40-7-5 LOCATION OF PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings.**

(1) Parking spaces accessory to dwellings located in any 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.

(2) All parking spaces accessory to permitted non-dwelling uses located in the residential zoning district generally shall be located on the same lot as the use served. However, by special use permit, such parking facilities may be located on another parcel within **two hundred (200) feet** of the use served. No commercial vehicle exceeding **one (1) ton** cargo capacity shall be parked anywhere in a residential district (except for normal loading, unloading, and service call), unless a special use permit has been obtained. No vehicle repair work shall be permitted on any parking lot located in any residential district.

(B) **Business and Industrial Districts.**

(1) Parking spaces accessory to any dwelling located in any business district shall be located within **two hundred (200) feet** of the dwelling. Parking spaces accessory to any other conforming use located in any business or industrial district shall be located within **five hundred (500) feet** of the use served.

(2) No parking space accessory to any use located in business or industrial district shall be located in any residential district except by special use permit; and in no case shall any such parking areas extend more than **five hundred (500) feet** into a residential district.

(3) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively 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 use served are observed.

40-7-6 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. All off-street loading facilities shall conform to the minimum standards indicated below:

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

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

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

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

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

40-7-7 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 (1) parking space** shall be required per **one and one-half (1.5) employees**", unless otherwise stated.

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

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

(D) If computation of the number of parking or loading spaces required by this Code results in a fractional space, any fraction of **one-half (.5)** or more shall be counted as **one (1) space**.

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

40-7-8 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:

	Use	Parking Spaces Required	Loading Spaces Required (if any)
(A)	Dwellings, Lodgings:		
	Motels, Boarding Houses	1 space per lodging unit, plus employee parking	1 space if the use has 20,000 sq. ft. or more of floor area
	Manufactured homes & Immobilizes homes	2 spaces per unit	Not Applicable
	Multi-family dwellings	2 spaces per dwelling unit	Not Applicable
	Single-family & two-family dwellings	2 spaces per dwelling unit	Not Applicable
	Manufactured Home	2 spaces per dwelling unit	Not Applicable
(B)	Educational, Institutional, Recreational:		
	Churches, assembly halls	1 space per 4 seats in the largest seating area	Not Applicable
	Libraries, museums	1 space per 500 sq. ft. of floor area	On review by the Administrator
	Nursing Homes	1 space per 5 beds plus 1.5 spaces per employee on the major shift	To 50,000 sq. ft. of floor area…1 space; 50,001-100,000 sq. ft…2 spaces
	Schools		
	Elementary and Junior High	1 space for every 20 students that the building is designed to accommodate, plus employee parking	On review by the Administrator
	Senior High	1 space for every 4 students that the building is designed to accommodate, plus employee parking	On review by the Administrator
(C)	Commercial, Office, Service: Note: All commercial and service uses, unless specifically indicated otherwise below.	1 space per 300 sq. ft. of floor area	To 10,000 sq. ft. of floor 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.

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

Use	Parking Spaces Required	Loading Spaces Required (if any)
Restaurants; refreshment stands		(Both sit-down and drive-in):
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more floor area
Drive-in	1 space per 25 sq. ft. of floor area	
Service stations	2 spaces per service stall, plus employee parking	Not Applicable
Taverns	1 space per 2 seats or 1 space per 50 sq. ft. of floor area, whichever is greater	1 space per structure having 10,000 sq. ft. or more of floor area
Theaters		Not Applicable
Indoor	1 space per 4 seats	
Drive-In	On review by the Administrator	
Vehicle sales (autos, boats, trailers, etc.)	1 space per 600 sq. ft. of enclosed floor area plus: Up to 10,000 sq. ft. of open lot area devoted to sale/ display of vehicles…1 space per 2,500 sq. ft. of open lot area. Above 10,000 sq. ft… 4 spaces plus 1 additional space per 5,000 sq. ft. of open lot area in excess of 10,000 sq. ft.	To 25,000 sq. ft. of floor area and open lot area...2 More than 25,000 sq. ft. of floor area and open lot area...2 space, plus 1 additional space per 25,000 sq. ft. in excess of 25,000 sq. ft.
(D) Industrial:		
Any manufacturing, warehousing, or other industrial use	Employee parking of 1 space per 1.5 employee; plus 1 space per company vehicle, plus 1 visitor space per employees on the major shift	To 20,000 sq. ft. of floor area...1 space; 20,001 50,000 sq. ft...2 spaces; 50,001-90,000 sq. ft...3 spaces; above 90,000 sq. ft...3 spaces plus 1 additional space per 50,000 sq. ft. of floor area in excess of 90,000 sq. ft.

ARTICLE VIII - NONCONFORMITIES

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

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

(A) was recorded in the office of the County Recorder of Deeds prior to the effective date of this Code (or pertinent amendment thereto);

(B) has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances; and

(C) is at least **fifty (50) feet** wide.

40-8-2.1 NON-URBAN AND RESIDENTIAL DISTRICTS. In the Agricultural District and in any residential district, one single-family dwelling and related accessory structure, but no other use, may be erected on any vacant nonconforming lot of the type described above provided all the bulk regulations of the particular district are observed.

40-8-2.2 BUSINESS AND INDUSTRIAL DISTRICTS. In the Industrial District and in any business district, 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.

40-8-2.3 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. **(See Section 40-3-8)**

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

(A) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.

(B) **Enlargement, Alterations.** A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity.

(C) **Relocation.** A nonconforming structure shall not be moved unless, after relocation, it will conform to all the regulations of the district in which it is situated.

(D) **Reconstruction.** No structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

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

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

40-8-4 NONCONFORMING USES OCCUPYING A STRUCTURE. If any lawful use occupying a structure exists on the effective date of this Code, 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 may be changed to a similar use, to a more restrictive use, or to a conforming use. Such use shall not thereafter be changed to a less restrictive use.

(E) **Discontinuance of Use.** When a nonconforming use of a structure or of a structure and premises in combination is discontinued for **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.

40-8-5 NONCONFORMING USE OF LAND. Any lawful use of land existing on the effective date of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

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

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

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

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

40-8-6 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.

ARTICLE IX - ADMINISTRATION AND ENFORCEMENT

40-9-1 ZONING ADMINISTRATOR. The office of Zoning Administrator of this City is hereby established. He shall be appointed by the Mayor with the advice and consent of the City Council for a term of **one (1) year**. The Zoning Administrator shall be the executive head of this office.

40-9-2 DUTIES. The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following duties:

(A) To review applications pertaining to land, structures and the uses of land and/or structures;

(B) To issue or deny initial and final certificates of zoning compliance;

(C) To supervise inspections of land, structures, and the uses of land and/or structures to determine compliance with this Code, and where there are violations, to initiate appropriate action to secure compliance;

(D) To receive, file and forward to the Board of Appeals all applications for variances and appeals;

(E) To receive and file all applications for amendments and special use permits;

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

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

(H) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary; and

(I) To provide information to the general public on topics related to this Code; and

(J) To republish the zoning district map not later than **March 31st** if any rezonings or annexations have been approved during the preceding calendar year. **(See Sec. 40-3-3)**

40-9-3 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 he determines that the proposed activity conforms to the applicable provisions of this Code.

40-9-4 ZONING 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. **(NOTE: Filing fee required in Section 40-9-14.)**

ITEMS OF INFORMATION:

(A) Name and address of the applicant;

(B) Name and address of the owner or operator of the proposed lot, structure or use, if different from (A);

(C) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;

(D) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;

(E) Area and dimensions of the site for the proposed structure or use;

(F) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;

(G) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;

(H) Height, setbacks, and lot coverage of the proposed structures;

(I) Number and size of proposed dwelling units, if any;

(J) Location and number of proposed parking/loading spaces and access ways;

(K) Identification and location of all existing and proposed utilities, whether public or private; and/or

(L) Location and square footage of existing and proposed signs by type and class.

40-9-5 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 (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work. **(See Sec. 40-9-7)**

40-9-6 RELATIONSHIP TO BUILDING PERMITS. Upon the effective date of this Code, no building permit for the erection, enlargement, extension, alteration, or reconstruction of any structure shall be issued until the applicant for such permit has properly obtained an initial certificate of zoning compliance pertaining to such work.

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

40-9-7 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot or part thereof that has been 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 certificate of zoning compliance has been issued. The Administrator shall not issue a final certificate of zoning compliance until it has been 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.

40-9-8 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 institute appropriate measures to secure compliance.

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

(A) A description of the premises sufficient for identification;

(B) A statement indicating the nature of the violation;

(C) A statement of the remedial action necessary to effect compliance;

(D) The date by which the violation must be corrected;

(E) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;

(F) The date by which an appeal of the correction order must be filed, and a statement of the procedure for so filing; and

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

40-9-10 SERVICE OF ORDER. A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

(A) Served upon him personally;

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

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

40-9-11 STOP ORDERS. Whenever any work being done in violation of an Initial Certificate of Zoning Compliance, the Administrator's corrective action order may state that the violation be stopped immediately. In such case, the corrective action order is equivalent to a stop order. **(See Sec. 40-9-9(D))**

40-9-12 EMERGENCY MEASURES. Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-9-13 COMPLAINTS. Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-9-14 FEES. The City Council establishes the following schedule of fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the applicant to the City Clerk as follows:

(A) **Zoning Occupancy Fees:**

Single-Family Dwelling	$50.00
Multi-Family Dwelling	$50.00 per unit
Commercial or Business Structure	$50.00
Industrial Structure	$100.00
Mobile Home Unit/Manufactured Home/Immobilized	$50.00 per unit
Accessory Building (larger than 100 sq. ft.)	$25.00
Structural Additions	$10.00
Plan Development	$500.00
Miscellaneous Permit	$0.01 per sq. ft.
(i.e., Parking Lot, Deck, Fence, Pool, Driveway, etc.)	($5.00 Minimum)
	($25.00 Maximum)
Sign Permit	$5.00 or $.05 per sq. ft.; (whichever is greater)

All fees for the above projects that are started prior to obtaining the Initial Zoning Occupancy Permit shall be doubled.

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

Interpretation of Code (Appeal)	$100.00
Special-Use Permit	$100.00
Variance Permit	$200.00
Amendments	$200.00

40-9-15 PENALTIES.

(A) Any person who is convicted of a violation of this Code shall be fined not less than **Seventy-Five Dollars ($75.00)**, nor more than **Seven Hundred Fifty Dollars ($750.00)**, plus costs. Each day on which a violation continues shall be considered a separate offense.

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

(C) **Attorney Fees and Court Costs.** In the event litigation is filed in a court of competent jurisdiction for violation of the Zoning Code, the City is authorized to charge and be awarded its reasonable attorney fees and court costs in addition to the fine for violation upon entry of a judgment in favor of the City by a court of competent jurisdiction. **(Ord. No. 15-1011; 05-12-15)**

ARTICLE X - SPECIAL PROCEDURES AND PERMITS

DIVISION I - BOARD OF APPEALS

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

40-10-2 MEMBERSHIP, APPOINTMENT, COMPENSATION. The Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the corporate limits of this City and within the **one and one-half (1 ½) miles** area outside the corporate limits in each direction. Each Board member shall be appointed by the Mayor with the advice and consent of the City Council. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. The Board of Appeals shall select **one (1)** of its members to be the vice-chairman and **one (1)** the secretary. Each Board member shall receive compensation as established by the City Council.

40-10-3 TERM OF OFFICE - VACANCIES. Every member of the Board of Appeals, which was established pursuant to the former Zoning Code shall be entitled to serve on the Board of Appeals established by this Section until the date his term of office would have expired if the former Zoning Code had remained in effect. Any person appointed to the Board of Appeals on or after the effective date of this Code shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified.

With the advice and consent of the City Council, the Mayor may remove any member of the Board of Appeals for cause after a public hearing. Vacancies on the Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of new members.

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

40-10-5 RECORDS. The Board of Appeals 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 recommendation of the Board of Appeals shall be filed immediately with the City Clerk and shall be a public record.

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

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

40-10-8 FINALITY OF DECISIONS OF THE CITY COUNCIL. All decisions of the City Council shall in all instances be the final administrative determination and shall be subject to review by a court in the manner provided by applicable Illinois Compiled Statutes. No applicant shall apply for the same or identical request for a period of **one (1) year** unless the facts and/or request have substantially changed.

[ED. NOTE: The City Council will need to pass an ordinance each time it takes action on a special-use permit, variance or amendment.]

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

40-10-10 - 40-10-11 RESERVED.

DIVISION II - APPEALS

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

40-10-13 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall also be filed with the Soil and Water Conservation District pursuant to State law. 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 65 ILCS 5/11-13-12) (See 70 ILCS 405/22.02A)**

40-10-14 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Administrator. **(See 65 ILCS 5/1113-12)**

40-10-15 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) days** nor less than **fifteen (15) days** before the hearing:

(A) By publication in a newspaper of general circulation within this City; and

(B) By certified mail to the applicant; and,

(C) By first-class mail to all owners of property contiguous to any property affected by the appeal.

(See 65 ILCS 5/11-13-12)

40-10-16 RECOMMENDATION OF THE BOARD OF APPEALS. The Board of Appeals shall make a recommendation to the City Council on the appeal within **thirty (30) days** after the hearing therein. The Board of Appeal's recommendation may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate. **(See 65 ILCS 5/11-13-3 and 5/11-13-12)**

ED. NOTE: The Board of Appeals is delegated the task of hearing appeals from the decisions of the Zoning Administrator or other official charged with enforcement of an ordinance passed pursuant to the Zoning Enabling Act. This may, for example, entail determining whether there has been a discontinuance of a nonconforming use. It is important for the applicant to note the appeal process because of the requirement of exhaustion of administrative remedies before suit is filed as well as the more obvious reason of using a less expensive administrative process for correcting a mistake or error which may have been made by the Zoning Administrator. (See 65 ILCS 5/11-13-3)

40-10-17 ACTION BY CITY COUNCIL. The City Council shall act on every appeal at their next regularly scheduled meeting following submission of the advisory report of the Board of Appeals. Without further public hearing, the City Council may approve or disapprove any appeal by simple majority vote of all the members then holding office. Such decision shall be binding upon the Zoning Administrator and observed by him. The Zoning Administrator shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Zoning Board of Appeals.

DIVISION III - VARIANCES

40-10-18 VARIANCES.

(A) A variance is a relaxation of the requirements of this Code that are applicable to a particular lot or structure.

(B) A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance, it is an amendment, and should be granted only as provided for in **Section 40-10-30**.

40-10-19 APPLICATION. Every application for a variance shall be filed with the Administrator on a prescribed form. Every variance application shall also be filed with the Soil and Water Conservation District as per State law. The Administrator shall promptly transmit said application, together with any device he might wish to offer, to the Board of Appeals. The application shall contain

sufficient information to allow the Board of Appeals to make an informed decision and shall include, at a minimum, the following: **(NOTE: Filing fee required.) [See 70 ILCS 405/22.02(A)]**

(A) Name and address of the applicant;

(B) Location of the structure/use for which the variance is sought;

(C) Brief description of adjacent lots, structures, and/or uses;

(D) Brief description of the problems/circumstances engendering the variance request;

(E) Brief, but specific, explanation of the desired variance;

(F) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and

(G) Any other pertinent information that the Administrator may require.

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

(A) By certified mail to the applicant and

(B) By publication in a newspaper of general circulation within the City and,

(C) By first-class mail to all owners of property contiguous to the property affected by the proposed variance. **(See 65 ILCS 5/11-13-7)**

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

(A) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and

(B) The plight of the owner is due to peculiar circumstances; and

(C) The variance, if granted, will not alter the essential character of the locality. **(See 65 ILCS 5/11-13-4 and 5/11-13-5)**

[NOTE: A variation shall be permitted only if in the judgment of the Board of Appeals sustains each of the three conditions above.]

40-10-22 RECOMMENDATION OF BOARD OF APPEALS. The Board of Appeals shall be required to submit an advisory report on all applications within **thirty (30) days** after the final hearing thereon. A copy of the Board of Appeal's report shall be transmitted to the applicant or appellant and to the Zoning Administrator. The Board of Appeals shall specify the terms of relief recommended (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Board of Appeal's reasons for recommending or denying any requested variance. **(See 65 ILCS 5/11-13-5 and 5/11-13-11)**

40-10-23 ACTION BY CITY COUNCIL. The City Council shall act on every proposed variance at their next regularly scheduled meeting following submission of the advisory report of the Board of Appeals. Without further public hearing, the City Council may approve or disapprove any proposed variance by simply majority vote of all the members then holding office. Such decision shall be binding upon the Zoning Administrator and observed by him. The Administrator shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Board of Appeals. **[NOTE: The City Council takes action through the adoption of an ordinance.]**

DIVISION IV - SPECIAL USES

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

40-10-25 APPLICATION. Every applicant for a special-use permit shall submit to the Zoning Administrator in narrative and/or graphic form, the items of information enumerated below. The Administrator shall promptly transmit the completed application, together with any comments or recommendation he might have, to the Board of Appeals for further consideration. **(NOTE: Filing fee required in Section 40-9-14)**

ITEMS OF INFORMATION:

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

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

(A) By certified mail to the applicant; and,
(B) By publication in a newspaper of general circulation within this City.
(C) By first-class mail to all owners of property contiguous to the property affected by the proposed special-use request. **(See 65 ILCS 5/11-13-7)**

40-10-27 ADVISORY REPORT, FACTORS CONSIDERED. Within **thirty (30) days** after the public hearing, the Board of Appeals shall prepare an advisory report. In deciding the recommendation, the Board of Appeals shall consider the following factors:

(A) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;

(B) Whether the proposed special use is consistent with this City's comprehensive plan, if any:

(C) The effect the proposed special use would have on the value of neighboring property and on this City's overall tax base;

(D) The effect the proposed special use would have on the public utilities and on the traffic circulation on nearby streets; and

(E) Whether there are any facilities near the proposed special use (such as schools or hospitals) that require special protection.

40-10-28 ACTION BY CITY COUNCIL. The City Council shall act on every request for a special use permit at their next regularly scheduled meeting following submission of the advisory report by the Board of Appeals. Without further public hearing, the City Council may approve or disapprove the 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 City Council shall state their findings of fact, and indicate their reasons for a special-use permit. **(See 65 ILCS 5/11-13-1)**

40-10-29 TEMPORARY USE PERMITS: PROCEDURE FOR. As set forth at **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The Board of Appeals shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

DIVISION V - AMENDMENTS

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

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

40-10-32 PUBLIC HEARING - NOTICE. The Board of Appeals shall hold a public hearing on every amendment proposal within **sixty (60) days** after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

(A) By certified mail to the applicant; and,

(B) By publication in a newspaper of general circulation within the City.

(C) By first-class mail to all owners of property contiguous to the property affected by the proposed amendment. **(See 65 ILCS 5/11-13-14)**

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

(A) Existing use and zoning of the property in question;

(B) Existing uses and zoning of other lots in the vicinity of the property in question;

(C) Suitability of the property in question for uses already permitted under existing regulations;

(D) Suitability of the property in question for the proposed use;

(E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since that property was initially zoned or last rezoned.

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

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

(A) When passage would be contrary to the recommendation of the Board of Appeals.

(B) When the amendment is opposed, in writing, by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered.

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

40-10-37 - 40-10-39 RESERVED.

(See 65 ILCS 5/11-13-14)

DIVISION VI – 911 NUMBERING OF BUILDINGS AND LOTS IN CORPORATE CITY LIMITS

40-10-40 ADOPTION OF HAMILTON COUNTY, ILLINOIS 911 ORDINANCE. The City hereby adopts Ordinance No. 01-2015 of Hamilton County, Illinois and the same is hereby incorporated herein, the same as if each and every part thereof were fully spelled out in this Article.

40-10-41 STREET NUMBERS REQUIRED. Each building, whether residence or business, and lot within the City shall have a 911 street number with reference to the street on which the building and lot fronts. However, 911 street numbers shall not be required for accessory structures of a nature customarily incidental and subordinate to the use of the main building on its lot.

40-10-42 DISPLAY OF STREET NUMBERS. The owner or occupant of each building within the City limits shall display the 911 street number of the building in numerals clearly visible from the street on which the building fronts. The numerals shall be at least **three (3) inches** in height is displayed within **twenty-five (25) feet** of the road or street and at least **four (4) inches** in height if displayed more than **twenty-five (25) feet** from the road or street and shall be placed on the front of each building, or on the front curb, or on a porch, pole or other sign in the front of the building provided that the numerals are clearly visible from the street. The owner or occupant of an unimproved lot shall not be required to display the 911 street number of the lot.

40-10-43 MAYOR WITH COUNCIL APPROVAL TO ASSIGN 911 NUMBERS AND STREET NAMES. The Mayor shall have the authority to assign street names, 911 street numbers, or to change street names or 911 street numbers of buildings and lots within the City limits of the City, with approval of the City Council, upon request from any interested person or upon the Mayor's own initiative.

40-10-44 NUMBERING TO BEGIN AT BASE LINE.

(A) Market Street shall be the base line for the numbering of buildings and lots on streets running North and South, while Washington Street shall be the base line for numbering of buildings and lots on streets running East and West.

(B) Building and lot numbering shall begin at the base line with the number 100 on the North side and with the number 101 on the South side. The West side of streets running North and South shall be even numbers, whereas the East side of streets running North and South shall be odd numbers. The North side of streets running East and West shall be even numbers, whereas the South side of streets running East and West shall be odd numbers.

Each lot shall have a 911 street number whether or not improved. Block numbers shall be assigned with reference to streets or to block size common in subdivisions within the City so that a uniform grid system of blocks within the City may be established and maintained.

40-10-45 NUMBERING AND STREET NAMES; WHEN EFFECTIVE. The initial numbering of a building or lot within the City or the change thereof shall not be effective until **thirty (30) days** after written notice of the initial 911 numbering or change in 911 numbering is given to the County Clerk, as the local election authority, and to the City post office, by certified or registered mail. The City Clerk shall mail the notice as provided above within **ten (10) days** of approval by the City Council.

40-10-46 FAILURE TO DISPLAY STREET NUMBER. The failure of any owner or occupant of a building within the City to display the 911 street number of the building or lot in compliance with this Division shall be deemed a violation of this Division and subject to a fine of **Fifty Dollars ($50.00)** per day.

After investigation, the Chief of Police or his or her designate may determine a violation of the minimum requirements of this Division exists and shall notify the owner or occupant in writing of the violation.

40-10-17 RIGHT TO REFUSE TO CONNECT OR DISCONNECT UTILITIES. The city shall have the right to connect or to disconnect City utilities to any building or lot within the City which does not display its 911 street number in compliance with this Division in the same manner as if the owner's or occupant's utility account with the City had remained unpaid for a period of **five (5) business days**.

(Ord. No. 15-1012; 07-14-15)