

CHAPTER 40

ZONING CODE

ARTICLE I

GENERAL PROVISIONS AND SAVING CLAUSES

40-1-1 **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;

(B) To discourage development of buildings and uses on sites not suited for development;

(C) To protect the character and stability of sound existing residential, commercial and industrial areas;

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

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

(F) To provide adequate parking and access for all buildings and lots;

(G) To reduce congestion on the public streets and highways;

(H) To protect property from damage caused by fire, or by flooding and poorly controlled storm water runoff;

(I) To guide the provision of water, sewer, storm water, and other utilities and municipal services;

(J) To reduce the initial costs and future maintenance expenses of public and private improvements and services through thoughtful planning; and

(K) To gradually eliminate existing structures and uses that impede achievement of the above objectives.

40-1-2 **SCOPE.** In order to achieve the objectives enumerated in **Section 40-1-1**, this Code:

(A) divides this entire Municipality into districts, and permits in each district only those structures and uses that are compatible with the character of such district;

(B) regulates lots size, and the bulk, setbacks, lot coverage, and manner of use of structures;

(C) imposes supplementary regulations to control certain potentially troublesome structures and uses;

(D) sets forth standards for off-street parking areas;

- (E) restricts nonconforming lots, structures, and uses that adversely affect the type of development appropriate in each district; and
- (F) establishes zoning administrative and enforcement procedures.

40-1-3 **JURISDICTION.** This Code shall be applicable within the corporate limits of this Municipality and within **one and one-half (1 ½) miles** of the corporate limits.

40-1-4 **ANNEXED TERRITORY.** Whenever, any territory is annexed to the City, it shall be classed as a R-1 zone district; unless at the time of annexation the territory is zoned in accordance with the public hearing provisions of **Article XVIII Division IV** of this Code.

40-1-5 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of this Municipality, 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.

- 40-1-6** **DISCLAIMER OF LIABILITY.**
- (A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this Municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.
 - (B) Any suit brought against any officer, board member, agent, or employee of this Municipality, as a result of any act required or permitted in the discharge of his duties under this Code, shall be defended by the Municipal Attorney until the final determination of the legal proceedings.

40-1-7 **SEPARABILITY.** If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

ARTICLE II

DEFINITIONS

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

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English 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.

Adjacent: Lying near, in the vicinity of, next to, adjoining.

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.

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

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

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

Apartment: A dwelling unit situated in a multiple-family dwelling.

Apartment Hotel: A multiple-family dwelling which furnishes for its tenants 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.

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.

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.

Building: Any covered structure permanently affixed to land and designed or used to shelter persons or movable, personal property.

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 mobile structure designed for temporary occupancy.

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, proceed.

Certificate of Zoning Compliance, Final: A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

Church: A building designed or used for regularly scheduled worship services.

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

Commercial Use/Establishment: Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

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 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.

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: One (1) person, or two (2) or more persons related by blood, marriage or legal adoption; or up to four (4) unrelated persons maintaining a common household in a dwelling unit.

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: A building and premises or portion thereof designed and primarily used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A filling station may include secondary facilities for washing vehicles and for making minor automotive repairs.

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: A building to which freight is brought by truck, air or railroad freight cars for later distribution.

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.

Gasoline Service Station: See “Filling Station”.

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 40-4-5)

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: An open area of land and any accessory structures thereon that are used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition or parts thereof, and metals, glass, paper, plastics, rags, and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard.

Kennel: Any structure or premises or portion thereof on which more than **three (3) dogs**, cats, or other household 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.

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 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 and shall also refer to an area-bulk variance.

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 for a monthly fee.

Mobile Home: A manufactured structure designed to permit its transport on its own wheels, containing complete kitchen and sanitary facilities, and used as a long-term dwelling by one family. A mobile home is built on a permanent chassis that consists of the wheel assembly, undercarriage and towing hitch assembly. Mobile homes must be built according to the Federal Mobile Home Construction and Safety Standard. Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the mobile home. See Figure 2.

Mobile Home Park: A parcel not less than **two (2) acres** in area in single ownership/control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of this Code.

Mobile Home Stand: The part of a mobile home space beneath the mobile home that includes the concrete slab or runners on which the home is placed.

Modulars (Sectional Houses): Built and transported in sections or two halves. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel. This will distinguish a modular from a mobile home which has a 2-inch by 4-inch metal plate mounted on the tail light (rear) end of the mobile home. See Figure 2. Modular housing is similar in many ways to conventionally constructed housing including construction on a permanent foundation (see definition for permanent foundation). Modular housing as herein defined shall be considered as single family dwellings.

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.

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 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.

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.

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.

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.

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 usually 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.

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

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.

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.

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.

Skirting: The cover 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.

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.

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: See "Camping Trailer."

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

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

Variance: See “Lot Size/Bulk Variance”.

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

Yard: Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal building.

Yard, Front: A yard which is bounded by the 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 Map: The map(s) and any amendments thereto designating zoning districts. The zoning map is incorporated into this Code.

ARTICLE III

GENERAL ZONING REGULATIONS

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

<u>DISTRICT</u>	<u>DESIGNATION</u>
Low Density Residential District	R-1
High Density Residential District	R-2
Permanent Mobile Home Park District	R-3
Business Commercial District	B-1
Light Industrial District	M-1
General Industrial District	M-2
Agricultural District	A-1
Recreational District	A-2
Airport Service District	A-3

40-3-2 **ZONING MAP AND DISTRICT BOUNDARIES.** The boundaries of the listed zoning districts are hereby established as shown on the zoning map of this Municipality. 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 Zoning Administrator or other appropriate official.

(A) **Annual Publication.** In accordance with State Law (**65 ILCS Sec. 5/11-13-19**), 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.

(B) **Determining Territory of Districts with Precision.** In determining with precision what territory is actually included within any zoning district, the Zoning Administrator shall apply the following rules:

- (1) 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:
 - (a) Center line of any street, alley or highway Such centerline.
 - (b) Lot line Such lot line.
 - (c) Railroad tracks Right-of-way line of such track

- (2) 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.
- (3) All territory (including bodies of water) that lies within the zoning jurisdiction of this Municipality, 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.

40-3-3 **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.

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.

40-3-4 **UNLISTED USES PROHIBITED.** Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the City Council, following consultation with the Zoning Administrator finds that the unlisted use is similar to and compatible with the listed uses, they may amend this Code in accordance with **Section 40-8-10** to allow such use. The Council's decision shall become a permanent public record, and any unlisted use that they approve shall thereafter have the same status as listed uses.

40-3-5 **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 40-8-8)

40-3-6 **ONE BUILDING AND ALL YARDS ON ONE LOT.** 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.

40-3-7 **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.

40-3-8 **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.

40-3-9 **EXCEPTIONS TO HEIGHT LIMITS.**
Intersections. On corner lots, in the triangular portion of land bounded by the street lines that are **thirty (30) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that is between **two (2)** and **ten (10) feet** above the level of the adjacent street.

40-3-10 **SEWERS, SEPTIC TANKS.** In all districts, property owners of all buildings and places where people live, work or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the municipal or public sanitary sewerage system is reasonably available, all sewage shall be discharged into such system, whether or not a private sewerage system already exists or is more convenient.

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

- (1) Illinois Private Sewage Disposal Licensing Act, (**Ill. Comp. Stat., Ch. 225; Sec. 225/1 through 225/23**) as now or hereafter amended; and
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, as now or hereafter amended; and
- (3) Pertinent, current regulation issued by the **Illinois Environmental Protection Agency**; and
- (4) Applicable codes and regulations of this City.

The Administrator shall not issue any temporary certificate of zoning compliance unless he is satisfied that these requirements will be met.

ARTICLE IV – “R-1” ZONE DISTRICT

LOW DENSITY RESIDENTIAL DISTRICT REGULATIONS

40-4-1 **LOW DENSITY RESIDENTIAL DISTRICT.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the “R-1” Low Density Residential District regulations.

40-4-2 **PERMITTED PRINCIPAL USES.**

(A) Single-family detached dwellings, excluding mobile homes as defined herein.

(B) Single-family detached modular homes.

(C) Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

(D) Signs, defined as follows:

(1) A sign, sign board or name plate not to exceed **six (6) square feet** in area, appertaining to the sale or lease of the premises or trespassing thereon. Such signs, sign boards or name plates may be backlighted or forelighted. Such signs, sign boards or name plates shall not be equipped with flashing lights.

(2) Church or public building bulletin board not exceeding **twenty (20) square feet** in area.

40-4-3 **PERMITTED ACCESSORY USES.**

(A) Accessory buildings and uses customarily incident to permitted principal uses, including private garages. Any accessory building that is not a part of the main structure shall be located behind the building setback line of the main structure and not less than **five (5) feet** from any other street line. Accessory uses shall not include the raising of poultry, pets or livestock on a scale that would be objectionable because of noise or odor to surrounding residences. No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced. Accessory buildings may be constructed on a lot adjoining a lot having a principal building when both lots have the same owner.

(B) Private swimming pools appurtenant to a dwelling on the same lot, when meeting yard depth and yard width requirements for principal buildings in the district in which they are located, and when the swimming pool or property on which it is located is adequately fenced to prevent access of small children, and meets all applicable health and safety requirements.

(C) The office or studio of a physician, surgeon, dentist, musician, lawyer, architect, teacher, beauty parlor operator, gift shop operator, mortician, or other member of a recognized profession in his place of abode, and within his dwelling unit, including an instructor in an individual musical instrument limited to a single pupil at a time provided that not more than the equivalent of **one-half (1/2)** of the individual's dwelling unit shall be used for office or studio space, and that no more than **one (1)** paid assistant is employed on the premises.

40-4-4 **PERMITTED SPECIAL USES.**

(A) Nurseries, truck gardening.

(B) Parks, playgrounds, and community buildings owned and operated by a public agency.

(C) Churches, provided that any church constructed on a new site shall provide off-street parking space upon the lot or within **two hundred (200) feet** thereof, which space is adequate to accommodate **one (1) car** for every **ten (10) persons** for which seating is provided in the main auditorium of the church, exclusive of the seating capacity of Sunday school and other special rooms.

(D) Public schools, elementary and high school, or private schools having a curriculum equivalent to a public elementary school or public high school and having no rooms regularly used for housing or sleeping purposes.

(E) Golf courses, except courses illuminated for night use or miniature courses and driving ranges operated for commercial purposes.

(F) Mobile homes, as defined by this Code, if used as single-family dwellings and if placed on a lot on a permanent foundation and permanently anchored to the ground.

(G) Signs, other than a sign or signboards as defined in **Article II** of this Code.

40-4-5 **PROHIBITED USES.** All commercial and industrial uses with the exception of home occupations and agricultural uses are prohibited in the "R-1" Low Density Residential District.

40-4-6 **PARKING REGULATIONS.** Off-street parking facilities shall be provided in the ratio of **one (1) space** per single-family residential unit. Required parking space shall not be located in required front or required side yards.

40-4-7 **HEIGHT REGULATIONS.** No building shall exceed **two and one-half (2 ½) stories** or **thirty-five (35) feet** in height, except as provided for in **Article XIII** hereof.

40-4-8 **AREA REGULATIONS.**

(A) **Front Yard.**

- (1) There shall be a front yard having a depth of not less than **twenty-five (25) feet**.
- (2) Where lots have a double frontage, the required front yard shall be provided on both streets.
- (3) Where a lot is located at the intersection of **two (2)** or more streets, there shall be a front yard on each street side of a corner lot; provided, however, that the buildable width of a lot of record at the time of passage of this Code need not be reduced to less than **thirty-five (35) feet**, except where necessary to provide a yard along a side street with a depth of not less than **five (5) feet**. No accessory building shall project beyond the front yard line on either street.

(B) **Side Yard.** Except as provided for in **Article XIII** hereof, there shall be a side yard on each side of a building having a width of not less than **five (5) feet** or **ten percent (10%)** of the average width of the lot, whichever amount is smaller; provided that no side yard shall have a width of less than **three (3) feet**.

(C) **Rear Yard.** Except as provided for in **Article XIII** hereof, there shall be a rear yard having a depth of not less than **thirty (30) feet** or **twenty percent (20%)** of the depth of the lot, whichever amount is smaller.

40-4-9 **INTENSITY OF USE.** All buildings, including accessory buildings, shall cover not more than **forty percent (40%)** of the area of the lot. Every “R-1” residential lot shall have an area of not less than **seven thousand two hundred (7,200) square feet** per family, and shall have an average lot frontage of not less than **forty (40) feet**, except that if a lot of record has less area or width than herein required and has been duly recorded prior to the date of the passage of this Code, such lot may be used for any purpose permitted in this Article.

Lot Area	Lot Width	Lot Frontage
7,200 sq. ft.	40 feet	40 feet

Yard Requirements	Height Requirements	Off-Street Parking
<p><u>Front:</u> 25 feet <u>Side:</u> 5 feet or 10% of average lot width <u>Rear:</u> 30 feet or 20% of lot depth, whichever is less <u>Corner:</u> 25 feet on Each street side of a corner lot</p>	<p>2 ½ stories or 35 feet</p>	<p>1 space/dwelling unit</p>

40-4-10 SPECIAL REQUIREMENTS.

- (A) In the “R-1” District, there shall be not more than **one (1)** principal detached residential building on a lot nor shall a principal detached residential building be located on the same lot with another principal building.
- (B) No accessory structures shall be constructed closer than **eight (8) feet** to any lot line nor in any side or front yard except a fence not to exceed **six (6) feet** in height along a lot line, or a driveway not closer than **two (2) feet** to a lot line.

ARTICLE V – “R-2” ZONE DISTRICT

HIGH DENSITY RESIDENTIAL DISTRICT REGULATIONS

40-5-1 **“R-2” ZONE DISTRICT ESTABLISHED.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the “R-2” High Density Residential District Regulations.

40-5-2 **PERMITTED PRINCIPAL USES.**

Any principal use permitted in the “R-1” Low Density Residential District regulations.

Two-family detached residential units.

40-5-3 **PERMITTED ACCESSORY USES.** Permitted accessory uses for the “R-2” District shall be identical to those set forth in this Code for the “R-1” Low Density Residential District at **Section 40-4-3** of this Code except that storage garages accessory to multiple dwellings, hospitals, or institutional buildings shall be located not less than **sixty (60) feet** from any other street line when such storage garages are not a part of the main building.

40-5-4 **PERMITTED SPECIAL USES.** Permitted special uses shall be identical to those set forth in the “R-1” Low Density Residential District regulations at **Section 40-4-4** of this Code.

40-5-5 **PARKING REGULATIONS.**

(A) Each two-family detached dwelling, private club, fraternity, sorority, lodge or rooming house shall provide off-street parking in the ratio of **one (1) space** per living unit. Required parking space shall not be located in required front or required side yards.

(B) Each single-family attached dwelling and each multi-family dwelling shall provide off-street parking in the ratio of **two (2) spaces** per living unit. Required parking space shall not be located in required front or required side yards.

40-5-6 **HEIGHT REGULATIONS.**

(A) No two-family detached residential dwelling in the “R-2” Residential District shall exceed **two and one-half (2 ½) stories** or **thirty-five (35) feet** in height.

(B) No single-family attached dwelling (row house or town house) or multi-family dwelling in the “R-2” Residential District shall exceed **three (3) stories** or **forty-five (45) feet** in height.

40-5-7 **AREA REGULATIONS.**

(A) **Front Yard.**

- (1) There shall be a front yard having a depth of not less than **twenty (20) feet**.
- (2) Where lots have double frontage, the required front yard shall be provided on both streets.
- (3) Where a lot is located at the intersection of **two (2)** or more streets, there shall be a front yard on each side street of a corner lot; provided, however, that the buildable width of a lot of record at the time of passage of this Code need not be reduced to less than **thirty-five (35) feet**, except where necessary to provide a yard along a side street with a depth of not less than **five (5) feet**. No accessory building shall project beyond the front yard line of either street.

(B) **Side Yard.** Except as provided for in **Article XIII** hereof, there shall be a side yard on each side of a building having a width of not less than **five (5) feet** or **ten percent (10%)** of the average width of the lot, whichever amount is smaller; provided that no side yard shall have a width of less than **three (3) feet**.

(C) **Rear Yard.** Except as provided for in **Article XIII** hereof:

- (1) Lots on which a two-family detached dwelling, single-family attached dwelling (row house or town house), fraternity, sorority, lodge or rooming house is situated shall have a rear yard of not less than **thirty (30) feet** or **twenty percent (20%)** of the depth of the lot, whichever amount is smaller.
- (2) Lots on which a multi-family dwelling is situated shall have a rear yard of not less than **twenty (20) feet**.

40-5-8 **INTENSITY OF USE.** Except as hereinafter provided, all dwellings hereinafter erected, enlarged, converted, relocated or reconstructed shall be located on lots containing the following areas:

(A) A lot on which a two-family detached residential dwelling unit is situated shall have an area of not less than **three thousand five hundred (3,500) square feet** per living unit.

(B) A lot on which a single-family attached dwelling is situated shall have an area of not less than **two thousand five hundred (2,500) square feet** per living unit.

(C) A lot on which a private club, fraternity, sorority, lodge, or rooming house is situated shall have an area of not less than **seven thousand two hundred (7,200) square feet**.

(D) Multi-family dwellings shall be located on lots which provide **two (2)** minimum buildable lot areas per dwelling unit, as follows:

- (1) Efficiency apartments: 1,000 sq. ft.
- (2) Apartments with 1 bedroom 1,200 sq. ft.
- (3) Apartments with 2 or more bedrooms 1,500 sq. ft.

(E) No multi-family or single-family attached dwelling shall be constructed with a total lot area of less than **eleven thousand (11,000) square feet**.

Minimum Lot Area	Minimum Average Lot Width	Minimum Lot Frontage
Single-family attached: 2,500 sq. ft.	Single-family attached: 30 ft./living unit	Single-family attached: 30 ft./living unit
Two-family detached: 3,500 sq. ft.	Fraternities, sororities, lodges, private clubs, rooming houses: 80 ft.	Two-family detached: 45 ft./living unit

Fraternities, sororities, lodges, private clubs, rooming houses:
7,200 sq. ft.

Multiple-family:
See Section 40-5-8 (D) and (E) of this Article

Minimum Yard Requirements	Minimum Height Requirements	Off-Street Parking
<p><u>Front</u>: 20 feet <u>Corner</u>: 20 feet on side streets of corner lots <u>Side</u>: 5 feet or 10% of the average lot width, whichever is smaller <u>Rear</u>: 30 feet or 20% of the average lot depth, whichever is smaller. Exception: multi-family dwelling</p>	<p>3 stories or 45 ft. Exception: Two-family detached dwellings: 2 ½ stories or 35 feet</p>	<p>Two-family detached dwellings, fraternity, sororities, lodges, private clubs, rooming houses, etc.; one space/living unit. Other residential: 2 spaces/living unit</p>

ARTICLE VI – “R-3” ZONE DISTRICT

PERMANENT MOBILE HOME PARK SUBDIVISION DISTRICT

40-6-1 **“R-3” DISTRICT.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the “R-3” Permanent Mobile Home Park Subdivision District Regulations.

40-6-2 **PERMITTED PRINCIPAL USES.** Mobile homes to be used as single-family dwellings placed on a lot on a permanent foundations, permanently anchored to the ground for a period of at least **sixty (60) days**, provided that the regulations set forth in the City’s Mobile Home Code are complied with. (See Chapter 23)

40-6-3 **PERMITTED ACCESSORY USES.**

Private recreational and hobby uses such as swimming pools, tennis courts, gardens and greenhouses.

Canopies, carports and awnings.

Accessory units or expansion units, but only when specifically designed for mobile home use.

Management and maintenance offices including storage facilities for grounds-keeping equipment.

Individual tenant storage facilities, either located on the lot, or in compounds located not more than **five hundred (500) feet** from the mobile home lot.

- Such storage facilities shall be designed in a manner that will enhance the appearance of the mobile home park subdivision and shall be constructed of suitable weather-resistant materials.
- There shall be a minimum of **ninety (90) cubic feet** provided for general storage for each mobile home lot.

40-6-4 **PERMITTED SPECIAL USES.** The use of any mobile home as temporary living or office space while a principal building or structure is under construction.

40-6-5 **PARKING REGULATIONS.** **Two (2)** off-street parking spaces for each mobile home dwelling shall be provided. No motor vehicle parked on a mobile home lot shall be parked nearer than **ten (10) feet** to any adjoining mobile home. Paved areas for guests shall be provided in the ratio of **one (1) space** for every **four (4)** dwelling unit lots.

40-6-6 **HEIGHT REGULATIONS.** No building, structure or dwelling in a permanent mobile home park subdivision shall exceed **two and one-half (2 ½) stories** or **thirty-five (35) feet** in height.

40-6-7 **AREA REGULATIONS.**

(A) **Front Yard.**

- (1) There shall be a front yard having a depth of not less than **twenty (20) feet**.
- (2) Where lots have double frontage, the required front yard shall be provided on both streets.
- (3) Where a lot is located at the intersection of **two (2)** or more streets, there shall be a front yard on each street side of a corner lot.

(B) **Side Yard.** There shall be a side yard on each side of a mobile home, which side yard shall have a depth of not less than **ten (10) feet**.

(C) **Rear Yard.** Each lot on which a mobile home dwelling is placed shall have a rear yard of not less than **five (5) feet**.

40-6-8 **INTENSITY OF USE REGULATIONS.**

(A) Each mobile home dwelling, including accessory buildings, garages and porches, shall cover no more than **seventy percent (70%)** of each subdivision lot or of each private lot.

(B) **Minimum Floor Area.** Each mobile home hereafter placed upon a permanent mobile home park subdivision lot shall have a total ground floor area of not less than **five hundred (500) square feet** as measured from the outside of exterior walls, including utility rooms, but excluding open porches, breezeways and garages.

40-6-9 **SPECIAL REQUIREMENTS.** The zoning procedures and use requirements for the “R-3” Permanent Mobile Home Park Subdivision District shall conform to the requirements set forth in the City’s Mobile Home Code.

Minimum Mobile Home Park Subdivision Area	Minimum Lot Area	Minimum Lot Frontage
5 acres	Mobile Homes: 4,000 sq. ft. Travel Trailers: 2,100 sq. ft.	20 feet
Minimum Yard Requirements	Height Requirements	Off-Street Parking Requirements
<u>Front:</u> 20 feet <u>Side:</u> 10 feet <u>Rear:</u> 5 feet <u>Corner:</u> 20 feet on each street side of lot	All buildings, structures, dwellings: 2 ½ stories or 35 feet	Two spaces for each mobile home dwelling: One space for every four dwelling unit lots
Maximum Lot Coverage		
70% of each subdivision lot or of each private lot		

ARTICLE VII – “B-1” ZONE DISTRICT

BUSINESS COMMERCIAL DISTRICT REGULATIONS

40-7-1 **“B-1” DISTRICT ESTABLISHED.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the regulations for the “B-1” Business Commercial District.

40-7-2 **PROHIBITED USES.**

(A) All residential uses in the “B-1” Business Commercial District are prohibited, with the exception of residential uses in existence at the date of passage of this Code, and with the exception of residential units above the first floor as provided for in **Section 40-7-5(E)**.

(B) The manufacture or production of any good is prohibited in District “B-1” except as noted in **Section 40-7-3(E)** of this Article, and in **Section 40-7-5(E)** of this Article.

40-7-3 **PERMITTED PRINCIPAL USES.**

(A) The sale of retail goods such as hardware, food, wearing apparel, home furnishings, books, jewelry; cafes and restaurants.

(B) Business and professional offices, including banks, brokerage firms, medical, dental, and chiropractic clinics, and veterinary clinics without open kennels.

(C) The sale of services such as barber shops, beauty parlors, bicycle repair, appliance repair, photography studios, plumbing shops, tailoring, shoe repair, upholstery shops, food storage lockers, business, dancing or music schools.

(D) Recreational uses such as bowling alleys, billiard parlors, and game arcades, when conducted wholly within a completely enclosed building.

(E) The production of goods for sale on the premises such as bakeries and printing establishments.

(F) Furnace, heating, and sheet metal shops or stores, and lumber yards. Not more than **ten percent (10%)** of the lot or tract of land occupied by such establishments shall be used for the open and unenclosed storage of materials or equipment.

(G) Retail dyeing and cleaning works, laundries and laundrettes including self-service establishments.

(H) Filling stations and motor vehicle servicing facilities, and the sale and storage of fuels and petroleum products, provided that all volatile fuels kept on the premises incident to such uses shall be stored below grade level.

(I) Hotels, motels, and tourist homes.

(J) Other retail uses similar in bulk, scale, and intensity.

40-7-4 **PERMITTED ACCESSORY USES.**

Uses clearly incidental to, but necessary to the principal uses.

40-7-5 **PERMITTED SPECIAL USES.**

(A) **Indoor Theatres.** No theatres shall be erected or reconstructed unless subject to the parking restrictions noted in **Section 40-7-6(B)** of this Article.

(B) Storage, sales or repair of new or used automobiles or farm equipment.

(C) Residential dwelling units above the first floors of commercial establishments.

(D) Taverns and retail package liquor stores.

(E) Assembly of components or substructures for modular buildings.

40-7-6 **PARKING REGULATIONS.**

(A) Commercial buildings shall provide permanent off-street parking in the ratio of **one (1) parking space** for each **three hundred (300) square feet** of floor space in the building, provided, however, that **two (2)** or more establishments may provide necessary parking spaces within the “B-1” Business Commercial District and within **three hundred (300) feet** of the establishment except that this requirement shall not apply to property fronting on Main Street between West Cross Street and the alley east of Capital Avenue, and property fronting on Capital Avenue between North Street and South Street.

(B) No theatre or auditorium shall be erected or reconstructed unless there is provided on the same lot or within **three hundred (300) feet** thereof a space for off-street parking which contains an area adequate to accommodate **one (1) automobile** for every **four (4) seats** in the theatre.

(C) **Dwelling Units.** No dwelling unit, including those in hotels, tourist homes and motels, shall be erected or reconstructed unless there is provided on the same lot or within **three hundred (300) feet** thereof space for off-street parking in the ratio of **one (1) space** per dwelling unit.

40-7-7 **HEIGHT REGULATIONS.** No building shall exceed **four (4) stories** or **sixty (60) feet** in height, except as otherwise provided for in **Article XIII** of this Code.

40-7-8 **AREA REGULATIONS.**

(A) **Front Yard.** No front yard is required in the “B-1” Business Commercial District.

(B) **Side Yard.** A side yard is not required in the “B-1” Business Commercial district except on the side of a lot adjoining an “R” Residential District, in which case there shall be a side yard of not less than **five (5) feet**.

(C) **Rear Yard.** No rear yard shall be required in the “B-1” Business Commercial District, except where a lot abuts on an “R” Residential District, in which case there shall be a rear yard of not less than **ten (10) feet**.

40-7-9 INTENSITY OF USE. The intensity of use regulations shall apply to dwelling units above stores and to commercial uses, as well as to residential buildings.

(A) **Minimum Lot Area.** The minimum lot area in the “B-1” Business Commercial District shall be **one thousand (1,000) square feet**.

(B) **Minimum Lot Width.** The minimum lot width in the “B-1” Business Commercial District shall be **twenty (20) feet**, except that this minimum lot width requirement shall not apply to structures used commercially on the date of the final adoption of this Code.

(C) **Minimum Lot Frontage.** The minimum lot frontage in the “B-1” Business Commercial District shall be **twenty (20) feet**, except that this minimum lot frontage requirement shall not apply to structures used commercially on the date of the final adoption of this Code.

40-7-10 SPECIAL REQUIREMENTS. All businesses, storage, merchandise display, repair and processing activities permitted in the “B-1” Business Commercial District, with the exception of filling stations, automobile display, and farm equipment display, shall be conducted wholly within a completely enclosed building.

Minimum Lot Area	Minimum Average Lot Width	Minimum Lot Frontage
1,000 sq. ft.	20 feet See Sec. 40-7-9(B)	20 feet See Sec. 40-7-9(C)

Yard Requirements

Height Requirements

If adjoining an “R”
Residential District:

Front: 25 feet

Rear: 10 feet

Side: 5 feet

Four stories or 60 feet.
Exceptions for public, semi-
Public building and schools,
hospitals, institutions.

ARTICLE VIII – “M-1” ZONE DISTRICT

LIGHT INDUSTRIAL DISTRICT REGULATIONS

40-8-1 **“M-1” ZONE DISTRICT.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the “M-1” Light Industrial District regulations.

40-8-2 **PROHIBITED USES.**

(A) All residential uses in this district are prohibited unless provided for elsewhere in this Article.

(B) Any commercial, manufacturing or processing activity which is not conducted within a completely enclosed building is prohibited in the “M-1” Light Industrial District unless otherwise provided for in this Article.

40-8-3 **PERMITTED PRINCIPAL USES.**

Limited manufacturing and processing activities, such as bottling plants, warehousing, research installations, truck terminals and cartage facilities, contractors’ yards, sheet metal shops, welding or machine shops, canneries, printing plants, packaging plants, dairies, wholesale storage, cabinet making establishments, optical goods factories, and other uses of similar scale and intensity.

40-8-4 **PERMITTED ACCESSORY USES.**

(A) Temporary buildings and uses for construction purposes for a period not to exceed **one (1) year**.

(B) Uses clearly incidental, but necessary to the principal use.

40-8-5 **PERMITTED SPECIAL USES.**

No building permit shall be issued for any of the following uses until and unless the location of such uses shall have been approved by the City Council after report by the Zoning Board of Appeals.

(A) Industrial activities, including but not limited to such activities as chemical refining or manufacturing; gasoline, petroleum, tar, creosote, or other flammable liquids manufacture, treatment or storage; foundries, coke ovens, or forges; ore reduction or smelting; stone milling or quarrying; cement, lime, mortar, gypsum or plaster manufacturing or mixing at a central plant; brick, tile, pottery or terra cotta manufacture (excluding handicrafts); rendering, distillation or reduction of animal products, coal or wood; reduction or dumping of garbage, offal, or dead

animals; glue, size, gelatin, tallow, grease, or lard manufacture; the slaughter of animals or fowl; tanning, curing or storage of raw hides or skins; soap manufacture; vehicle wrecking; boiler works; arsenals; manufacture or storage of explosives; junk, iron or rag storage or bailing; planing mills, rolling mills, and other uses which are noxious or offensive by reason of the emission of smoke, dust, fumes, gas odors, noise or vibration beyond the confines of the building.

(B) Permitted Principal Uses in the “B-1” Business Commercial District, as set forth at **Section 40-7-3** of this Code.

(C) Storage, sales, or repair of new or used automobiles or farm equipment.

40-8-6 **PARKING REGULATIONS.** Industrial and commercial establishments in the “M-1” Light Industrial District shall provide permanent off-street parking on a lot in the ratio of **one (1)** parking space for each **two (2) employees**, plus **one (1)** parking space for each company vehicle.

40-8-7 **HEIGHT REGULATIONS.** No building or structure shall exceed **four (4) stories** or **sixty (60) feet** in height above grade, except as provided for hereinafter at **Article XIII** of this Code.

40-8-8 **AREA REGULATIONS.**

(A) **Front Yard.**

(1) There shall be a front yard having a depth of not less than **twenty-five (25) feet**, except as provided for in **Article XIII** of this Code.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(B) **Side Yard.** Except as provided for in **Article XIII** of this Code, there shall be a side yard on each side of a principal building, which yard shall have a width of not less than **fifteen (15) feet**.

(C) **Rear Yard.** Except as provided in **Article XIII** of this Code there shall be a rear yard having a depth of not less than **twenty-five (25) feet**.

(D) **Front Yards on Corner Lots.** Where a lot is located at the intersection of **two (2)** or more streets, there shall be a front yard having a depth of not less than **twenty-five (25) feet** on each street side of the lot, provided, however, that the buildable width of a lot of record at the time of passage of this Code is not reduced less than **thirty-five (35) feet**, except where necessary to provide a yard along a side street with a depth of not less than **five (5) feet**. No accessory building shall project beyond the front yard line on either street.

40-8-9 **SPECIAL REQUIREMENTS.** District “M-1” properties within **one hundred fifty (150) feet** of Residential or Business Commercial Zoning Districts shall provide effective screening around open areas if such areas are used for storage or for any industrial purpose other than transportation of goods between buildings. Such screening shall consist of densely planted trees, shrubs or hedge, not less than **ten (10) feet** in height, or of a **ten (10) foot** high wall or fence. This planting strip shall be at least **six (6) feet** wide and shall be considered part of the required yard.

Lot Area	Lot Width	Lot Frontage
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N/A	N/A	N/A
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Yard Requirements	Height Requirements
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<p><u>Front:</u> 25 feet <u>Rear:</u> 25 feet <u>Side:</u> 15 feet <u>Corner:</u> 25 feet</p>	<p>Four stories or 60 feet.</p>
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Off-Street Parking

One space for each two employees,
 Plus one space for each company vehicle

ARTICLE IX – “M-2” ZONE DISTRICT

GENERAL INDUSTRIAL DISTRICT REGULATIONS

40-9-1 **“M-2” ZONE DISTRICT ESTABLISHED.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the “M-2” General Industrial District regulations.

40-9-2 **PROHIBITED USES.** Commercial and residential uses in District “M-2” are prohibited unless otherwise provided for in this Article.

40-9-3 **PERMITTED PRINCIPAL USES.** Permitted principal uses in the “M-2” General Industrial District shall be identical to the permitted principal uses set forth for the “M-1” Light Industrial District at **Section 40-8-3** of this Code.

40-9-4 **PERMITTED ACCESSORY USES.**

Temporary buildings and uses for construction purposes for a period not to exceed **one (1) year**.
Uses clearly incidental, but necessary to the principal use.

40-9-5 **PERMITTED SPECIAL USES.** Any building or premises may be used for any purpose not in conflict with any ordinance of the City regulating nuisances; provided, however, that no building permit shall be issued for any of the following uses until and unless the location of such use shall have been approved by the City Council after report by the Zoning Board of Appeals.

Utility substations.

Communications towers and stations.

Commercial establishments.

Acid manufacture.

Cement, lime mortar, gypsum or plaster manufacturing or mixing at a central plant.

Slaughter of animals or fowl.

Rendering, distillation or reduction of animals products.

Tanning, curing or storage of raw hides or skins.

Operation of stockyards or confinement facilities.

Reduction or dumping of garbage, offal, or dead animals.

Manufacture or storage of explosives.

Fertilizer manufacture.

Gas manufacture.

Glue manufacture.

Refining or storage of petroleum or its products.

Junk, iron, or rag storage or bailing.

Other uses of similar scale and intensity.

40-9-6 **PARKING REGULATIONS.** Business Commercial, Light Industrial, and General Industrial establishments in the “M-2” District shall provide permanent off-street parking on a lot in the ratio of **one (1)** parking space for each **two (2) employees**, plus **one (1)** parking space for each company vehicle.

40-9-7 **HEIGHT REGULATIONS.** No building or structure shall exceed **four (4) stories** or **sixty (60) feet** in height above grade, except as provided for hereinafter at **Article XIII** of this Code.

40-9-8 **AREA REGULATIONS.** Area regulations for the “M-2” General Industrial District shall be identical to the area regulations or the “M-1” Light Industrial District as set forth at **Section 40-8-8** of this Code, except that there shall be no minimum rear yard depth requirement in the “M-2” District.

40-9-9 **SPECIAL REQUIREMENTS.** District “M-2” properties within **one hundred fifty (150) feet** of Residential or Business Commercial Districts shall provide effective screening around open areas if such areas are used for storage or for any industrial purpose other than transportation of goods between buildings. Such screening shall consist of densely planted trees, shrubs or hedge, not less than **ten (10) feet** in height, or of a **ten (10) foot** high wall or fence. This planting strip shall be at least **six (6) feet** wide and shall be considered part of the required yard.

Lot Area	Lot Width	Lot Frontage
½ acre (21,780 feet)	150 feet	100 feet

Yard Requirements	Height Requirements
<u>Front:</u> 25 feet <u>Rear:</u> None <u>Side:</u> 15 feet <u>Corner:</u> 25 feet	Four stories or 60 feet.

Off-Street Parking

One space for each two employees,
Plus one space for each company vehicle

ARTICLE X – “A-1” ZONE DISTRICT

AGRICULTURAL DISTRICT REGULATIONS

40-10-1 **“A-1” ZONE DISTRICT.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the regulations for the “A-1” Agricultural District.

40-10-2 **PERMITTED PRINCIPAL USES.**

Single-family residential dwellings associated with bona-fide agricultural uses included within this district.

Farms for the growing of the usual farm products such as vegetables, fruit, trees and grain, and their storage on the area. The term “farming” includes the operating of such an area for **one (1)** or more of the above uses, including the necessary accessory uses for the treating or storage of produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal farming activities, and provided further that farming shall not include the extraction of minerals.

Roadside stands offering for sale only farm products produced on the premises, provided that such stands are located not less than **fifty (50) feet** from a street or highway right-of-way.

Open-air recreational uses such as parks and playgrounds.

Temporary buildings and uses for construction purposes for a period not to exceed **one (1) year**.

Home occupations, as defined in **Section 40-2-2** of this Code.

Private recreational and hobby uses such as swimming pools, tennis courts, gardens, and greenhouses.

The sale of nursery and greenhouse products where production or growth of products takes place on the premises.

40-10-3 **PERMITTED ACCESSORY USES.**

(A) Billboards and sign boards subject to the following restrictions:

- (1) No billboard or sign board shall be located within **four hundred (400) feet** of any “R” District.

- (2) No billboard or sign board shall contain more than **three hundred (300) square feet** of surface area nor exceed in height **twenty-five (25) feet** above the average grade.
- (3) Billboards or sign boards may have constant or flashing illumination, provided that any such sign located in the direct line of vision of any traffic control signaling device shall not have contrasting or flashing intermittent illumination of red, green or amber color. Where a sign is illuminated by light reflected upon it, direct rays of light shall not project upon any part of any existing state or federal highway right-of-way, or any existing residential structure in any "R" District.

(B) Signs, defined as follows:

- (1) Signs accessory to roadside stands shall be limited to **two (2) per lot** with no sign larger than **forty (40) square feet** and set back **thirty (30) feet** from the right-of-way. Such signs shall be less than **fifteen (15) feet** in height and pertain to agricultural products offered for sale, and identification of such stand.
- (2) A real estate sign of a temporary nature, not exceeding **two (2)** in number per lot nor exceeding **forty (40) square feet** in area. Such signs shall be **fifteen (15) feet** or less in height and set back **thirty (30) feet** from any highway, street or road right-of-way.
- (3) Small announcement signs, not exceeding **four (4) square feet** in area placed no closer than **twenty (20) feet** from any right-of-way. An announcement sign or bulletin board not over **twelve (12) square feet** in area, set back **twenty (20) feet** from any right-of-way may be erected in connection with any non-residential permitted principal use in the "A-1" Agricultural District.
- (4) A sign or signs flat against the building appertaining to a nonconforming use on the premises, not exceeding in the aggregate **fifty (50) square feet** in area, except as may be authorized by the City Council.

(C) Temporary buildings and uses for construction purposes for a period not to exceed **one (1) year**.

40-10-4 **PERMITTED SPECIAL USES.**

Farms for the raising thereon of the usual farm poultry and farm livestock such as horses, cattle, sheep and swine, and including dairy farms with the necessary accessory uses for treating and storing the product, provided, however, that no poultry or livestock are housed closer than **one thousand (1,000) feet** from any “R”, “B”, “M” or “A-2” Districts or any lot occupied by a dwelling or by any school, church, or institution for human care.

Cemeteries.

Radio and television studios or transmitting stations.

Pasturing, provided that livestock feeding facilities or terminal facilities are not closer than **one thousand (1,000) feet** to any lot in any “R”, “B”, “M”, or “A-2” District or to any lot occupied by a dwelling or by any school, church, or institution for human care.

Riding stables, provided, however, that buildings housing animals be at least **one hundred (100) feet** from all property lines, that the lot has an area of not less than **ten (10) acres**, and that the lot is located on a road having a pavement at least **twenty (20) feet** wide.

Hospitals and institutions of an educational, religious, charitable or philanthropic nature, provided, however, that such buildings shall not be located upon sites containing an area of less than **five (5) acres**, shall occupy not over **ten percent (10%)** of the total area of the lot, and that buildings shall be set back from all yard lines a distance of not less than **two (2) feet** for each foot of building height.

Any principal use permitted in the “B-1” Business Commercial District.

Open air fisheries when ponds or properties on which ponds are located are adequately fenced to prevent access of children.

40-10-5 **PARKING REGULATIONS.** Off-street parking facilities shall be provided in the ratio of **one (1) space** per single-family residential unit.

40-10-6 **HEIGHT REGULATIONS.** There shall be no restriction on the height of buildings in the “A-1” Agricultural District.

40-10-7 **AREA REGULATIONS.** No minimum yard areas shall be required for the “A-1” Agricultural District except a front yard of **eighty (80) feet** along state and federal highways and a front yard of **sixty (60) feet** along state aid highways and other public roads.

40-10-8 **INTENSITY OF USE.**

(A) Except as otherwise provided for in this Code, every lot on which a dwelling is erected shall have an area of not less than **five (5) acres**, except that if a lot has less area than herein required, and was on record at the time of the effective date of this Code, that lot may be used for single-family dwelling purposes or for the other non-dwelling uses permitted in this Article.

(B) Public schools, elementary and high, private schools having a curriculum similar to that ordinarily given in a public elementary school or public school including religious instruction in parochial schools hereafter erected shall conform to the following minimum standards.

- (1) Elementary school - **five (5) acres** plus **one (1) acre** per **one hundred (100) student** design capacity.
- (2) Junior high school - **ten (10) acres** plus **one (1) acre** per **one hundred (100) student** design capacity.
- (3) Senior high school - **fifteen (15) acres** plus **one (1) acre** per **one hundred (100) student** design capacity.

Minimum Lot Area	Lot Width	Lot Frontage
5 acres per single-family dwelling	None	None
Yard Requirements	Height	Off-Street Parking
<u>Front:</u> 80 feet setback from state, federal rights-of-way; 60 ft. setback from state aid highways and other public roads	None	One space per single-family dwelling

ARTICLE XI – “A-2” ZONE DISTRICT

RECREATIONAL DISTRICT REGULATIONS

40-11-1 **“A-2” ZONE DISTRICT.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the regulations for the “A-2” Recreational District.

40-11-2 **PERMITTED PRINCIPAL USES.**

Parks and open space areas.

Recreational uses such as golf courses, swimming pools, playgrounds, etc.

Bathing beaches and bath houses.

Boat docks and marinas.

Picnic shelters and facilities.

40-11-3 **PERMITTED ACCESSORY USES.**

Temporary buildings and uses for construction purposes for a period not to exceed **one (1) year**.

Storage facilities.

Uses clearly incidental, but necessary to the permitted principal uses.

40-11-4 **PERMITTED SPECIAL USES.**

Private recreational clubs.

Riding stables.

Zoos.

40-11-5 **HEIGHT REGULATIONS.** No building or structure in the “A-2” Recreational District shall exceed **four (4) stories** or **sixty (60) feet** in height.

40-11-6 **SPECIAL REQUIREMENTS.** No building or accessory structure shall be constructed closer than **fifty (50) feet** to any lot line in an adjoining district.

Lot Area	Lot Width	Lot Frontage
N/A	N/A	N/A
Yard Requirements	Height	Off-Street Parking
N/A	Four (4) stories or 60 feet	Varies

ARTICLE XII – “A-3” ZONE DISTRICT

AIRPORT SERVICE DISTRICT

40-12-1 **REGULATIONS.** The regulations set forth in this Article, or set forth elsewhere in this Code when referred to in this Article, are the regulations for the “A-3” Airport Service District.

40-12-2 **PERMITTED PRINCIPAL AND ACCESSORY USES.**

Airports and support services.
 Commercial and industrial uses directly related to airport operations.
 Agricultural uses as permitted in the “A-1” District as Permitted Principal, Accessory and Special Uses.

40-12-3 **PROHIBITED USES.**
 Residential Uses.

40-12-4 **SPECIAL USES.**
 Other industrial and commercial uses.

ARTICLE XIII – NONCONFORMING USES

40-13-1 **STORAGE AND NUISANCE LAW.** The lawful use of land for storage or other purposes on which no buildings exist which does not conform to the provisions of this Code shall be governed by strict interpretation of the City’s Nuisance Code. **(Chapter 25)**

40-13-2 **NONCONFORMING LAWFUL USE.** The lawful use of a building existing at the time of the adoption of this Code may be continued, although such use does not conform with the provisions hereof, and such use may be extended throughout the building provided no structural alterations, except those required by law or Code, are made therein. If no structural alterations are made, a nonconforming use of the same or more restricted classification. The foregoing provisions shall also apply to nonconforming uses in districts hereafter changed to a more restricted use or to a conforming use. Such use shall not thereafter be changed to a less restricted use.

40-13-3 **DESTRUCTION OF NONCONFORMING USE.** No building which has been damaged by fire, explosion, act of God, or the public enemy, to the extent of more than **seventy-five percent (75%)** of its assessed value, shall be restored except in conformity with the regulations of this Code.

40-13-4 **DISCONTINUE NONCONFORMING USE.** In the event that a nonconforming use of any building or premises is discontinued or its normal operation stopped for a period of **one hundred eighty (180) days**, the use of the same shall thereafter conform to the regulations of the district in which it is located.

40-13-5 **ALTERATIONS IN NONCONFORMING USE.** No existing building or premises devoted to a use not permitted by this Code in the district in which such building or premises is located, except when required to do so by law or code, shall be enlarged, extended, reconstructed or structurally altered, unless such use is changed to one permitted in the district in which such building or premises is located.

ARTICLE XIV – ADDITIONAL HEIGHT AND AREA REGULATIONS

[The district regulations hereinafter set forth in this Article qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Code.]

40-14-1 **HEIGHT: PUBLIC BUILDINGS.** Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding **sixty (60) feet**, and churches and temples may be erected to a height not exceeding **seventy-five (75) feet** if the building is set back from each yard line at least **one (1) foot** for each **two (2) feet** of additional building height above the height limit otherwise provided in the district in which the building is located.

40-14-2 **HEIGHT OF APPURTENANCES.** Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, radio and television towers, grain elevators, or necessary mechanical appurtenances, may be erected to a height not exceeding **one hundred (100) feet** in accordance with existing or hereafter adopted ordinances of the City.

40-14-3 **ACCESSORY BUILDINGS IN REAR YARDS.** Accessory buildings may be built in a rear yard but such accessory buildings shall not occupy more than **thirty percent (30%)** of a rear yard and shall not be nearer than **two (2) feet** to any side or rear lot line, except that when a garage is entered from an alley said garage shall not be located closer than **ten (10) feet** to an alley line, and except that a garage located closer than **ten (10) feet** to the main building shall provide the side and rear yards required for the main building.

40-14-4 **PRINCIPAL BUILDING PRIOR TO ACCESSORY BUILDING.** No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes.

40-14-5 **REQUIRED YARD – OPEN.** Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard, and except for the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than **twelve (12) inches**.

40-14-6 **BASEMENT DWELLINGS.** A basement or cellar may be occupied for residential purposes for a period of not more than **two (2) years** from the date of issuance of the building permit.

40-14-7 **PERMITTED INTRUSIONS INTO THE REAR YARD.** Open fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projection of chimneys and flues into the required rear yard may be permitted by the Zoning Administrator for a distance of not more than **three and one-half (3 ½) feet** where the same are so placed as not to obstruct light and ventilation.

40-14-8 **FRONT YARD PROJECTIONS.** An open unenclosed porch or paved terrace may project into the required front yard. An enclosed vestibule containing not more than **forty (40) square feet** may project into the required front yard for a distance not to exceed **four (4) feet**.

40-14-9 **PERMITTED INTRUSIONS.** Terraces, uncovered porches, platforms and ornamental features which do not extend more than **three (3) feet** above the floor level of the ground (first) story may project into a required yard, provided that these projections be at least **two (2) feet** distant from the adjacent side lot line.

40-14-10 **MULTIPLE DWELLING—SIDE YARDS.** For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as **one (1) building** occupying **one (1) lot**.

40-14-11 **TEMPORARY BUILDINGS.** Temporary buildings that are used in conjunction with construction work only may be permitted in any zoning district during the period that the building is being constructed, but such temporary buildings shall be removed upon completion of the construction work.

40-14-12 **USE OF COMMERCIAL PROPERTY.** Where a lot or tract is used for a commercial or industrial purpose, more than **one (1) main building** may be located upon the lot or tract but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

40-14-13 **MULTIPLE BUILDINGS.** In the event that a lot is to be occupied by a group of **two (2)** or more related buildings to be used for residential, institutional, or hotel purposes, there may be more than **one (1) main building** on the lot; provided, however, that open space between buildings that are parallel or within **forty-five (45) degrees** of being parallel, shall have a minimum dimension of **twenty (20) feet** for one-story buildings, **thirty (30) feet** for two-story buildings, and **forty (40) feet** for three-story buildings.

40-14-14 **OPEN SPACE REQUIREMENTS.** Where an open space is more than **fifty percent (50%)** surrounded by a building, the minimum width of the open space shall be at least **twenty (20) feet** for one-story buildings, **thirty (30) feet** for two-story buildings, and **forty (40) feet** for three-story buildings.

40-14-15 **SIDE YARDS.** No side yards are required where dwelling units are erected above commercial or industrial structures.

40-14-16 **STORAGE BUILDINGS.** Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

40-14-17 **FRONT SETBACKS IN BUILT-UP AREAS.** The front yards heretofore established shall be adjusted in the following cases:

(A) Where **forty percent (40%)** or more of the frontage on one side of a street between **two (2) intersecting** streets is developed with buildings that have observed (with a variation of **five (5) feet** or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the front yards so established by the existing buildings.

(B) Where **forty percent (40%)** or more of the frontage on one side of a street between **two (2) intersecting** streets is developed with buildings that have not observed a front yard as described above, then:

- (1) Where a building is to be erected on a parcel of land that is within **one hundred (100) feet** of existing buildings on both sides, the minimum front yard shall be a line drawn between the **two (2) closest front corners** of the adjacent buildings on **two (2) sides**, or
- (2) Where a building is to be erected on a parcel of land that is within **one hundred (100) feet** of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

ARTICLE XV – ADDITIONAL USE REGULATIONS

40-15-1 **SPECIAL USE PERMIT.** The City Council may, by special use permit after public hearing, authorize the location of any of the following buildings or uses in a district from which they are prohibited by this Code, and may also permit an increase in the height of any such buildings.

Any building erected or uses by any department of the School District, or City, County, State or Federal Governments.

Private schools, including nursery, pre-kindergarten, kindergarten, play and special schools.

Hospitals, clinics and institutions, including educational, religious and philanthropic institutions and convalescent homes; provided, however, that such buildings occupy not over **forty percent (40%)** of the total area of the lot and will not have any serious and depreciating effect upon the value of the surrounding property, and provided further, that the buildings shall be set back from all yard lines a distance of not less than **one (1) foot** for each foot of building height, and that adequate off-street parking space be provided.

Cemeteries.

Community buildings or recreation fields.

Airport or landing fields.

Greenhouses and nurseries.

Hotels and motels.

Trailer or tourist camps, but only in the “A-1”, and “A-2” Districts; provided that:

- The number of trailers or motor homes, or both shall not exceed the number obtained by dividing the total square foot area of the site of 1200.
- The distance of at least **twenty (20) feet** be maintained between buildings, between trailers, and between trailers and buildings.

- Each tourist cabin unit shall have a minimum enclosed floor area of **two hundred (200) square feet**, and be provided with heating facilities, a lavatory, toilet, and tub or shower with hot and cold running water. Sanitary and water supply facilities installed shall be subject to approval of the Health Officer.
- Each trailer or tourist camp shall provide sanitary facilities and water supply in accordance with the standards of and meeting the approval of the Health Officer. All permits for trailer or tourist camps shall be valid only during the period that the camp complies with the requirements of the Health Officer. No permit for a camp shall be granted until the plans have been approved by the Health Officer.

Private recreational uses where buildings do not cover more than **five percent (5%)** of the area of the site.

Riding stables and private stables.

Roadside stands and recreational activities for temporary or seasonal periods.

Radio and television towers and broadcasting stations.

Extraction of sand, gravel, rock and other raw materials.

Parking lots on land not more than **three hundred (300) feet** from the boundary of any business commercial zoning district.

Clubs and semi-public buildings.

Before issuance of any special use permit of any of the above buildings for uses, the City Council shall refer to proposed application to the Planning Commission, which Commission shall be given **thirty (30) days** in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the public health, public safety and general welfare. No action shall be taken upon any application for a proposed building or use referred to above until and unless the report of the Planning Commission has been filed, provided, however, that if no report is received from the Planning Commission within **thirty (30) days**, it shall be assumed that approval of the application has been given by the said Commission.

40-15-2 **RESIDENTIAL USE ENTRANCE FACING ALLEY.** Locating the main entrance of any residential dwelling unit located or constructed in the City so that the main entrance faces an alley is hereby expressly prohibited after this Code takes effect.

ARTICLE XVI – PARKING REGULATIONS

DIVISION I – GENERAL PROVISIONS

40-16-1 **PROCEDURE.** An application for a building permit for a new or enlarged building, structure, or use, shall include therewith a plot plan, drawn to scale, and fully dimensioned showing any off-street parking or loading facilities to be provided in compliance with the requirements of this Code.

40-16-2 **EXTENT OF CONTROL.** The off-street parking and loading requirements of this Code shall apply as follows:

(A) All buildings and structures erected and all land uses shall provide accessory off-street parking or loading facilities as required hereinafter for the use thereof.

(B) When a building or structure erected or enlarged prior to or after the effective date of this Code shall undergo a decrease in number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified hereinafter for required off-street parking or loading spaces through application of the provisions of this Code, off-street parking and loading facilities may be reduced accordingly, provided that existing off-street parking and loading facilities are so decreased only when the facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this Code to the entire building or structure as modified.

(C) When a building or structure undergoes any increase in number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required off-street parking or loading facilities, and further, when the increase will result in a requirement for additional total off-street parking or loading spaces through application of the provisions of this Code, parking and loading facilities shall be increased so that the facilities will at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of this Code to the entire building or structure as modified.

40-16-3 **EXISTING OFF-STREET PARKING AND LOADING SPACES.** Accessory off-street parking and loading spaces in existence on the effective date of this Code may not be reduced in number unless already exceeding the requirements of this Section for equivalent new construction; in which event, said spaces shall not be reduced below the number required herein for such equivalent new construction.

40-16-4 **RESERVED.**

DIVISION II – ADDITIONAL REGULATIONS

40-16-5 **USE OF OFF-STREET PARKING FACILITIES.** Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Section shall be used solely for the parking of passenger automobiles or commercial vehicles of not more than **five (5) tons** GVW owned by occupants of the dwelling structures to which such facilities are accessory or by guests of said occupants.

40-16-6 **JOINT PARKING FACILITIES.** Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together are not less than the sum of the separate requirements for each use and not more than **three hundred (300) feet** from the lot on which the main building or use to be served is located. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereto assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney or appointed legal advisor, and shall be filed with the application for a building permit.

40-16-7 **RECIPROCAL PARKING.** Not more than **fifty percent (50%)** of the parking spaces required for:

(A) theatres, and places of amusement, and up to **one hundred percent (100%)** of the parking spaces required for a church or school may be provided and used jointly by

(B) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (A);

provided, however, that written agreement, assuring the retention for such purpose, shall be properly drawn and executed by the parties concerned, approved as to form and execution by the City Attorney, and shall be filed with the application for a building permit.

40-16-8 **CONTROL OF OFF-SITE FACILITIES.** When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located, they shall be in the same possession, either by deed or long-term

lease, as the property occupied by such principal use, and the owner shall be bound by covenants filed on record in the office of the City Clerk, requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of the principal use.

40-16-9 **PERMITTED DISTRICTS FOR ACCESSORY PARKING.** Accessory parking facilities provided elsewhere than on the same zoning lot with the principal use served in accordance with the requirements below, may be located in any zoning district except as follows:

(A) No parking facilities accessory to a business or manufacturing use shall be located in a Residential zoning district.

40-16-10 **NONRESIDENTIAL PARKING IN RESIDENTIAL DISTRICTS.** Accessory off-street parking facilities serving nonresidential uses of property may be permitted in an “R” district, when authorized by the City Council after review and study by the Planning Commission, subject to the following requirements in addition to all other relevant requirements.

(A) The parking lot shall be accessory to, and for use in connection with, one or more nonresidential establishments located in adjoining districts or in connection with one or more existing professional or institutional office buildings or institutions, if the parking lot proposed is within **three hundred (300) feet** of the nonresidential use which it is to serve.

(B) The parking lot shall be used solely for the parking of passenger automobiles or commercial vehicles of not more than **five (5) tons** GVW.

(C) No commercial repair work or service of any kind shall be conducted on the parking lot.

(D) No sign of any kind other than signs designating entrances, exits and conditions of use, shall be maintained on the parking lot. Signs shall not exceed **twenty (20) square feet** in area.

(E) Each entrance to and exit from the parking lot shall be at least **twenty (20) feet** distant from any adjacent property located in any residential district, except where ingress and egress to the parking lot is provided from a public alley or public way separating the residential areas from the proposed parking lot.

(F) In addition to the foregoing requirements, such parking lot shall conform to any further requirements and conditions as may be prescribed by the City Council for the protection of properties adjacent to and in the vicinity of the proposed parking lot.

40-16-11 - 40-16-15 **RESERVED.**

DIVISION III – DESIGN AND MAINTENANCE

40-16-16 **PARKING SPACE - DESCRIPTION.** A required off-street parking space shall be an area of not less than **two hundred (200) square feet** nor less than **ten (10) feet** wide by **twenty (20) feet** long measured perpendicularly to the sides of the parking space exclusive of access drives or aisles, ramps, columns, or office and work areas, accessible from streets or alleys and to be used for the storage or parking of passenger automobiles or commercial vehicles under **one and one-half (1 ½) ton** capacity. Aisles between vehicular parking spaces shall be not less than **twelve (12) feet** in width when serving automobiles parked at a **forty-five (45) degree** angle in one direction nor less than **twenty-five (25) feet** in width when serving automobiles parked perpendicularly.

40-16-17 **ACCESS.** Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the movement of traffic and be so designed as to permit adequate maneuvering area for vehicles to turn around where only one entry or exit is provided in order that no backing of vehicles into the street is required. No driveway or curb cut in any district shall exceed **twenty-five (25) feet** in width.

40-16-18 **SIGNS.** No signs shall be displayed in any parking area within any residential district, except such as may be necessary for the orderly use of the parking facilities.

40-16-19 **STRIPING.** All parking spaces shall be properly marked by durable paint in stripes a minimum of **four (4) inches** wide and extending the length of the parking space.

40-16-20 **REQUIRED SETBACKS.** No parking space nor portion thereof established on the same zoning lot with a building shall be located within a required front yard. No parking spaces or portion thereof established on a zoning lot without a building shall be located closer to any street line than the established building line on adjacent properties or closer than the front yard setback required for the district in which the parking lot is located. Further, any wall, fence or hedge developed around any parking area shall be subject to the front yard setback requirements of this Code in the same manner as a building or structure.

40-16-21 **SURFACING.** All open off-street parking areas, except those accessory to single-family dwellings, shall be improved with a **five (5) inch** gravel base, surfaced with oil and wash gravel.

40-16-22 **LIGHTING.** All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining properties.

40-16-23 **STORM WATER.** Adequate storm water drainage facilities shall be installed in order to insure that storm water does not flow onto abutting property or abutting sidewalks in such a way or quantity that pedestrians using the sidewalk would be detrimentally affected or inconvenienced. The Municipality's Engineer shall approve all such facilities.

ARTICLE XVII - ADMINISTRATION

DIVISION I - ENFORCEMENT

40-17-1 **ZONING ADMINISTRATOR AND DUTIES.** The office of Zoning Administrator of this Municipality is hereby established. The Zoning Administrator shall be the executive head of this office.

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 specific duties:

- (A) To review applications pertaining to land, structures and the uses of land and/or structures;
- (B) To issue or deny temporary and permanent 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 Zoning 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.

40-17-2 **TEMPORARY CERTIFICATES OF ZONING COMPLIANCE.** No land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until a temporary certificate of zoning compliance has been issued. The Administrator shall issue no temporary certificate of zoning compliance unless he determines that, when the (proposed) work is completed, the use and/or structure will conform to the applicable provisions of this Code.

(A) **Information Required.** Every applicant for a temporary certificate of zoning compliance shall submit to the Administrator, a narrative or graphic form, any or all of the following items of information as required by the Administrator:

(NOTE: As used below, the term “proposed” refers to “altered”, “enlarged”, or “extended” as well as “completely new”.)

- (1) Name and address of the applicant;
- (2) Name and address of the owner or operator of the proposed structure or use, if different from (1);
- (3) Nature of the proposed use, including type of activity, manner of operations, number of occupants or employees, and similar matters;
- (4) Location of the proposed use or structures, and its relationship to existing adjacent uses or structures;
- (5) Area and dimensions of the site for the proposed structure or use;
- (6) Existing topography of the site (USGS 10-foot contour data is acceptable), and proposed finished grade;
- (7) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (8) Height, setbacks, and lot coverage of the proposed structures;
- (9) Number and size of proposed dwelling units, if any;
- (10) Location and number of proposed parking/loading spaces and access ways;
- (11) Identification and location of all existing and proposed utilities whether public or private; and/or
- (12) Location and square footage of existing and proposed signs by type and class.

(B) **Filing Fee, Duration of Certificate.** Every applicant for a temporary certificate of zoning compliance shall pay a filing fee of **Ten Dollars (\$10.00)**. Temporary certificates of zoning compliance shall be valid for **one (1) year**. The Administrator may renew such temporary certificates for successive **one (1) year** periods upon request in writing.

40-17-3 PERMANENT CERTIFICATES OF ZONING COMPLIANCE. No lot or structure or part thereof that has been created, developed, erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used or occupied until a permanent certificate of zoning compliance has been issued. The Administrator shall issue no permanent certificate of zoning compliance unless he determines, by inspection, that:

(A) The development or construction of such lot or structure has been completed in accordance with plans approved at the time the temporary certificate of zoning compliance was issued; and

(B) The lot or structure as completed, and the proposed use thereof, conforms to all applicable provisions of this Code.

Permanent certificates of zoning compliance shall be issued free of charge. Failure to obtain a permanent certificate of zoning compliance shall constitute a separate violation of this Code.

40-17-4 **PROCEDURES UPON VIOLATION.** Whenever the Zoning Administrator determines, by inspection or by other means, that reasonable grounds exist for believing that any lot, structure, or use is in violation of this Code, he shall so notify the responsible party in writing, and shall institute appropriate measures to secure compliance.

(A) **Corrective Action Orders.** To secure compliance with this Code, the Administrator may issue a corrective action order. Such order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is served upon such party personally, sent by registered mail to his last known address, or posted in a conspicuous place on or about the affected premises. Corrective action orders shall include:

- (1) A description of the premises sufficient for identification;
- (2) A statement of what constitutes the violation;
- (3) An outline of the remedial action necessary to effect compliance;
- (4) The date by which the violation must be corrected;
- (5) The date by which any appeal of the correction order must be filed, and a statement of the procedure for so filing;
- (6) A statement that failure to abide by a corrective action order constitutes a separate violation of this Code; and
- (7) A statement of the penalties attached to any violation of this Code.

(B) **Stop Work Order.** Whenever any land, structure, or use is being developed, erected, or established contrary to plans approved at the time the temporary certificate of zoning compliance was issued, the Administrator may order that such work be stopped immediately. The Administrator's stop-work order may be served on any person engaged in or responsible for such work, or may be posted in a conspicuous place on or about the affected premises. Failure to abide by a stop-work order shall be deemed a separate violation of this Code.

40-17-5 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition. The Administrator shall take no such action until he has consulted with the City Attorney.

40-17-6 **COMPLAINTS.** Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, immediately investigate, and, if necessary, institute appropriate corrective measures.

40-17-7 **PENALTIES FOR VIOLATION.**

(A) Failure to comply with any provision of this Code shall constitute a misdemeanor, and each day that such violation continues shall be considered a separate offense.

(B) Any person who is convicted of a violation of this Code shall be fined not more than **Five Hundred Dollars (\$500.00)**.

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

40-17-8 - 40-17-10 **RESERVED.**

DIVISION II – ZONING BOARD OF APPEALS

40-17-11 **BOARD OF APPEALS.** The Zoning Board of Appeals of this Municipality is hereby established in accordance with Illinois law.

40-17-12 **MEMBERSHIP, APPOINTMENT, COMPENSATION.** The Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within this Municipality. Each Board member shall be appointed by the Mayor with the advice and consent of the City Council. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. Each Board member shall receive for his services such compensation, if any, as is determined from time to time by the City Council.

40-17-13 **TERM OF OFFICE, VACANCIES.** Each Board member shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified; provided, however, that the initial appointees to the Board shall serve respectively for the following terms: **one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years, one (1) for six (6) years, and one (1) for seven (7) years.** With the advice and consent of the City Council, the Mayor may remove any member of the Board of Appeals for cause, after a public hearing. Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of new members.

40-17-14 **MEETINGS.** All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board may determine. All Board meetings shall be open to the public. The Board may adopt their own rules of meeting procedures, so long as these rules do not conflict with this Code or with the applicable Illinois Statutes. The Board may select such officers as they deem necessary. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board shall constitute a quorum, and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Board action.

40-17-15 **RECORDS.** The Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order, or decision of the Board shall be filed immediately in the Board's office, and shall be a public record.

40-17-16 **DUTIES.** The Board of Appeals is hereby authorized and directed to perform the following duties:

- (A) To hear appeals from any zoning-related decision or order made by the Administrator;
- (B) To hear upon requests for lot size/bulk variances in accordance with the standards established in this Code; and
- (C) To perform such other duties as the City Council may prescribe.

ARTICLE XVIII – HEARINGS AND PROCEDURES

DIVISION I - APPEALS

40-18-1 **NATURE OF AN APPEAL.** Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Zoning Board of Appeals on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Division. (See 65 ILCS Sec. 5/11-13-12)

[ED. NOTE: An Applicant usually will file for a specific hearing along with the “Appeal”, i.e. special-use permit.]

40-18-2 **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 a written notice specifying the grounds for appeal. The fee for the filing of an appeal shall be **Twenty-Five Dollars (\$25.00)**. Not more than **five (5)** working days after the notice of appeal has been filed, the Administrator shall transmit to the Board all records pertinent to the case.

40-18-3 **STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board, after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board or the circuit court grants a restraining order for due cause, and so notifies the Administrator.

40-18-4 **HEARING.** The Board shall hold a hearing on every appeal not later than **sixty (60) days** 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.

40-18-5 **NOTICE.** Notice of the hearing shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

(A) By certified mail to the petitioner and by regular mail to every owner of property adjacent to the premises to which the appeal is requested; and

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

This notice shall indicate the time, date, and place of the hearing, the particular location for which the appeal is requested and briefly describe the issue to be decided.

40-18-6 **DECISION BY BOARD OF APPEALS.** The Board shall be required to decide all appeals within **thirty (30) days** after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him and he shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Board.

40-18-7 - 40-18-10 **RESERVED.**

DIVISION II - SPECIAL USE PERMITS

40-18-11 **NATURE OF SPECIAL USES.** This Code divides this Municipality into various districts, and permits in each district only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review, and may be allowed only by permission of the Board of Appeals.

40-18-12 **APPLICANT.** Every applicant for a special use permit shall submit to the Zoning Administrator, in narrative or graphic form, any or all of the items of information enumerated in **Section 40-7-2(A)** that he may require. When the application is complete, the Administrator shall forward to, together with his recommendation, to the Board of Appeals for further consideration.

40-18-13 **HEARING.** The Board of Appeals shall hold a public hearing on any application for a special use permit not later than **sixty (60) days** after its filing. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-18-14 **HEARING.** Notice of the public hearing shall be given not more than **thirty (30)** nor more than **fifteen (15) days** before the hearing:

(A) By certified mail to the applicant and by regular mail to every owner of property adjacent to the premises for which the special use permit is requested; and

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

This notice shall indicate the time, date, and place of the hearing, the particular location for which the special use permit is requested, and the nature of the proposed special use.

40-18-15 **FACTORS CONSIDERED.** In making their decision, the Board of Appeals shall consider the following factors:

(A) Whether the proposed design, location, and manner of operation, of the proposed special use is protective of the public health, safety, and welfare;

(B) The effect the proposal would have on the value of neighboring property;

(C) The effect the proposal would have on this Municipality's overall tax base;

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

(E) Whether there are any facilities nearby that require special protection.

40-18-16 **DECISION BY BOARD OF APPEALS, STANDARDS.** The Zoning Board may grant a special use permit without further public hearing by simple majority vote, provided that such special use, as conditioned, is:

(A) Protective of the public health, safety, and welfare;

(B) In keeping with the general purposes of this Code;

(C) Consistent with the characteristics of the general nature of the area in which the special use is to be located.

40-18-17 - 40-18-20 **RESERVED.**

DIVISION III – TEMPORARY USE PERMITS

40-18-21 **PROCEDURE FOR.** As set forth at **Section 40-3-5**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The City Council shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

40-18-22 **RESERVED.**

DIVISION IV – AREA-BULK VARIANCES

40-18-23 **NATURE OF VARIANCE.** A “lot size/bulk variance” means a relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure.

40-18-24 **APPLICATION.** Every application for area-bulk variance shall be filed with the Administrator on a prescribed form. The application shall contain sufficient information to allow the Board to make an informed decision. The variance application filing fee shall be **Twenty-Five Dollars (\$25.00)**.

40-18-25 **HEARING.** The Board shall hold a public hearing on any variance application not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-18-26 **NOTICE.** Notice of the public hearing 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 by regular mail to every owner of property adjacent to the premises for which the variance is requested; and

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

This notice shall indicate the time, date, and place of the hearing, the particular location for which the variance is requested, and the nature of the proposed variance.

40-18-27 **STANDARDS FOR VARIANCES.** The Board of Appeals shall not recommend nor shall the City Council grant any area-bulk 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 shall not recommend nor shall the City Council decide upon a variance unless they determine, based upon the evidence presented to them, that:

- (A) The property in question cannot yield a reasonable return if the district regulations are strictly applied; and
- (B) The plight of the applicant is due to peculiar circumstances not of his own making; and
- (C) The variance, if granted, will not be detrimental to the public health, safety, and welfare.

40-18-28 **DECISION BY BOARD OF APPEALS.** The Board shall be required to decide all applications within **thirty (30) days** after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Inspector. Such decision shall be binding upon the Zoning Inspector and observed by him and he shall be required to incorporate the terms and conditions of the same if the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Board. The Board shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Board's reasons for granting or denying any requested variance.

40-18-29 **UNAUTHORIZED VARIANCES (USE VARIANCE).** Under no circumstances shall the Board of Appeals grant a variance to allow any use that is specifically or by implication (See **Section 40-3-4**) prohibited in the district involved. A "use variance" constitutes an amendment to this Code, and may be obtained only in the manner set forth in **Division IV**.

40-18-30 - 40-18-34 **RESERVED.**

DIVISION V - AMENDMENTS

40-18-35 **NATURE OF AMENDMENTS.** In accordance with Illinois law (**65 ILCS Sec. 5/11-13-14**) and the provisions of this Section, the City Council may amend the regulations imposed and the districts established in this Code. Any proposed alteration of district boundaries or proposed change in the status of any use--whether permitted, special, or prohibited--shall be treated as a proposed amendment, and dealt with accordingly. Amendments may be proposed by the City Council, the Zoning Administrator, the Plan Commission, or any party of interest.

40-18-36 **FILING.** Any proposal to amend this Code shall be filed on a prescribed form with the Administrator, who shall forward it, together with his recommendation, to the Plan Commission. A fee in the amount of **Thirty-Five Dollars (\$35.00)** shall accompany any amendment proposal filed by a party in interest.

40-18-37 **HEARING.** The Board of Appeals shall hold a public hearing on every amendment proposal not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-18-38 **NOTICE.** Notice of the public hearing 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 to every owner or property adjacent to the premises for which the special use permit is requested; and

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

This notice shall indicate the time, date, and place of the hearing, the particular location for which the special use permit is requested, and the nature of the proposed special use.

40-18-39 **ADVISORY REPORT/FINDINGS OF FACT.** Not later than **ten (10) days** after the public hearing, the Board of Appeals shall submit their advisory report/findings of fact to the City Council. The Board of Appeals shall not recommend the adoption of any amendment unless they find that such amendment is in the public interest and not merely for the benefit of the part proposing it.

Where the effect of a proposed amendment is to alter district boundaries or to change the status (permitted, special, or prohibited) of any use, the Board of Appeals shall make findings regarding all of the following matters:

- (A) Existing uses of property in the vicinity of the property in question;
- (B) The district classification of property in the vicinity of the property in question;
- (C) The suitability of the property in question for uses already permitted under the existing district classification;
- (D) The trend of development in the vicinity of the property in question, including changes (if any) which may have taken place since that property was placed in its present district classification.

40-18-40 **DECISION BY CITY COUNCIL.** The City Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Board of Appeals' advisory report. Except as provided at **Section 40-18-41**, the City Council, without further public hearing, may be simple majority vote, pass any proposed amendment or may refer it back to the Board of Appeals for further consideration.

40-18-41 **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.

40-18-42 **NOTICE TO APPLICANT OF WRITTEN PROTEST.** In cases of written opposition to an amendment of this Code as prescribed in **Section 40-18-41**, 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.

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