

CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

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 non-conforming 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.

40-1-4 **ANNEXED TERRITORY.** Whenever, any territory is annexed to the Village, the annexed area shall retain its existing district classification until such time that an Amendment is passed in accordance with the provisions of **Section 40-8-3** 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.

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 term "this municipality" shall mean the Village of Valmeyer, Illinois.

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

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

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

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

(L) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

40-2-2 SELECTED DEFINITIONS.

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

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

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

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

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

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

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

Day Care Center: See "Nursery School."

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

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

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

District Zoning: A portion of the territory of this municipality wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

Driveway: A minor way commonly providing vehicular access to a garage or 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 person, or two 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.

Gasoline Service Station: See "Filling Station."

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

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

Home Occupation: Any business, profession, or occupation conducted for gain or support entirely within a dwelling or on residential premises in conformity with the provisions of this Code. (See Section 40-4-5.)

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 domestic animals, over **four (4) months** of age, are kept or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

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 of Monroe County, Illinois, in accordance with State law.

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

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

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

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

Manufactured Housing: Mobile homes and modulares (sectional houses) as defined herein. (Ord. No. 97-65; 09-24-97)

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

Mobile Home: A factory fabricated single family home built on a permanent chassis that consist of wheel assembly, undercarriage, and towing hitch assembly and containing a complete kitchen and sanitary facilities and used as a long-term dwelling by one family. All mobile homes must be placed on a full perimeter foundation extending below the frost depth. All wheels and towing devices must be removed. A mobile home must have a minimum 3/12 pitch roof. Mobile homes must have a minimum **eight hundred forty (840) square feet** of floor area. Mobile homes shall be built according to the Federal Mobile Home Construction and Safety Standard. (Ord. No. 97-65; 09-24-97)

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

Modulars (Sectional Houses): A modular home is a factory fabricated single family home. All modular homes must be placed on a full perimeter permanent foundation, extending below the frost depth. All wheels and towing devices must be removed. A modular home must have a minimum 3/12 pitch roof. Modular homes must meet either the National Manufactured Home Construction and Safety Standards (HUD Code) or the adopted Village Building Code (BOCA). (Ord. No. 97-65; 09-24-97)

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.

Recreational Vehicle: Camping trailers, motorized vehicles, boats, jet-skis, all-terrain vehicles, or any other vehicle used for recreational purposes. (Ord. No. 96-38; 05-21-96)

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

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

Repair: To restore to sound condition, but not to reconstruct.

Residence: A sight constructed building (non-factory fabricated) designed for use as a residence. All residences must be placed on a full perimeter permanent foundation extending below the frost depth. All residences must be built to the adopted Village Building Code. The definition of Residence for purposes of this Zoning Code does not include Mobile Homes or Modulares (Sectional Houses). (Ord. No. 97-65; 09-24-97)

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 Village 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.

Wind Generator/Windmill: A structure erected to generate electricity or pump water using the power of wind. Such structures would require a set of plans signed and sealed by a structural engineer. These structures would be required to be built according to the current building code adopted by the Village. (Ord. No. 08-06; 07-01-08)

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>
Agricultural District	A-1
Single Family Residence District	R-1
Single Family Residence District	R-2
Single Family Residence District	R-3
Multi-Family Residence District	R-4
Downtown Business District	B-1
Auto Business District	B-2
Industrial District	I-1

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, the Administrator shall publish the Village's zoning map not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations. (See 65 ILCS 5/11-13-19)

(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.

(A) **Agricultural Exemption.** The provisions of this Code shall not be interpreted or administered so as to restrict the erection, maintenance, alteration, or extension of buildings

(including farmhouses) or structures used or intended to be used for agricultural purposes on agricultural land except that such buildings or structures shall be required to conform to applicable setback regulations and any accessory uses (which are allowed on agricultural land only by special use permit) shall conform to applicable height and area limitations provided by the special use permit allowing such uses. 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. (Ord. No. 09-06; 04-06-09)

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 Village Board, 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 40-8-3** to allow such use. The Board'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 40-8-2**).

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.
- (C) Only one principal building or structure shall be permitted on any business, industrial or agricultural lot, and any accessory use (if any shall be allowed) shall be by special use permit only. (Ord. No. 09-06; 04-06-09)

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 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS. Except as specifically provided otherwise, in the Residential zoning district and in the Community Business district, where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block shall be the average of the existing front set-backs; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

40-3-10 INTRUSIONS INTO YARDS. Except where principal buildings are commonly attached (for example, in the downtown business area), no part of a principal building on one lot shall be closer than **ten (10) feet** from any part of a principal building located on an abutting lot. However, so long as this overriding constraint is observed, certain intrusions into required yards are permitted as indicated below:

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

40-3-11 EXCEPTIONS TO HEIGHT LIMITS.

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

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines 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. **(See Sketch at end of Code.)**

40-3-12 ACCESSORY USES. An "accessory use" means any structure or use which is:

- (A) Subordinate in size or purpose to the principal structure or use which it serves;
- (B) Necessary or contributing to the comfort and convenience of the occupants (whether individuals or a commercial enterprise) of the principal structure or use served; and
- (C) Located on the same lot as the principal structure or use served.

If an accessory use is attached to the principal structure, it shall be considered part of that principal structure. Roof overhangs on accessory structures not attached to the principal structure shall not encroach more than **two (2) feet** into the required setback distance.

(D) **Specifically Prohibited Accessory Uses.** The following accessory uses are strictly prohibited unless expressly permitted in particular zoning districts:

- (1) Use of an accessory structure as a dwelling.
- (2) Construction or installation of a wind generator/windmill, except as specifically permitted pursuant to this Zoning Code. **(Ord. No. 08-06; 07-01-08)**

(E) **Limitations.** See Schedules **(Art. III, Secs. 40-3-14 and 40-3-15)** for limitations and Schedule listings located at the end of this Code.

40-3-13 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, (225 ILCS 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 ordinances of this Village.

The Administrator shall not issue any temporary certificate of zoning compliance unless he is satisfied that these requirements will be met. (See Ch. 38 - Utilities)

40-3-14 SCHEDULE: AREA AND BULK REGULATIONS; PARKING REQUIREMENTS.
(See Schedule 40-3-14 located at the end of this Code.)

(A) To facilitate public understanding of this Code and for the better administration and convenience of use thereof, the regulations limiting the dwelling unit density, the heights, bulk and arrangement of buildings, and requiring minimum off-street parking for each of the districts established by Section 40-3-1 hereof (or specified use), area set forth in the Schedule hereof. Such Schedule 40-3-14 is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code.

40-3-15 SCHEDULE: PERMITTED USES AND ACCESSORY USES; SPECIAL USES; PROHIBITED USES. (See Schedule located at the end of this Code.)

(A) To facilitate public understanding of this Code and for the better administration and convenience of use thereof, the regulations designating permitted uses, permitted accessory uses, special uses and specifically prohibited uses for each of the districts established by Section 40-3-1 hereof, are set forth in Schedule 40-3-15 as a part of Section 40-3-1 hereof. Such Schedule is intended and declared to be an integral part of this Code and it may be amended in the same manner as any other part of this Code.

(B) Each column refers to a specific district which lists the permitted uses, permitted accessory uses, special uses and specifically prohibited uses, and are read vertically under a district column.

(C) Limitations and requirements in the Schedule as used in a column shall mean and include the specific limitations and requirements as set forth in the same column for the district referred to. Where reference is made in the Schedule to another section or provision of this Code, such section or provision referred to shall thereby be incorporated as an integral part of the requirements including such reference. All provisions of this Code shall apply as integral parts of this Section although not specifically cited as a column. In addition to the limitations and requirements set forth in the Schedule, the height of any accessory building (if one is allowed on the subject lot) shall not exceed the height of the principal building on such lot. (Ord. No. 09-06; 04-06-09)

(D) **SCHEDULE: PERMITTED USES; PERMITTED ACCESSORY USES; SPECIAL USES; SPECIFICALLY PROHIBITED USES; USE LIMITATIONS.** (See Schedule located at the end of this Code).

ARTICLE IV - SUPPLEMENTARY ZONING REGULATIONS

DIVISION I - GENERALLY

40-4-1 APPLICABILITY OF ARTICLE. This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome, structures, and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special use permit. But if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-4-2 RECREATIONAL VEHICLES. The regulations of this Section do not apply to camping trailers or other similar recreational vehicles parked in a permitted camping trailer park. The requirements of paragraphs (A), (C), and (D) do not apply to camping trailers or other similar recreational vehicles parked on a permitted camping trailer sales lot.

(A) Not more than one recreational vehicle per dwelling shall be parked on any lot.

(B) No recreational vehicle shall be used as living quarters (other than in a camping trailer park).

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

(D) No recreational vehicle shall be parked on any front yard, including the driveway of the property if the driveway is located in the front yard of the residence. Further, no recreational vehicle may be parked on a side yard, or driveway located in a side yard, which abuts a street. **(Ord. No. 96-38; 05-21-96)**

40-4-3 FENCES, WALLS.

(A) No barbed wire or electrically charged fence, and no sharp-pointed fence shall be erected or maintained in any residential district of this municipality. (R1, R2, R3)

In commercial or industrial districts, (I-1, B-1) a sharp pointed fence and barbed wire fence are allowed provided said fence exceed **eight (8) feet** in height. The barb wire must turn in towards the property it is protecting. No electrically charged fence shall be erected or maintained anywhere in this municipality except for existing agricultural uses.

If a residential lot abut a commercial or industrial lot, fences up to **eight (8) feet** in height may be erected in a side or rear yard which abuts the commercial or industrial lot.

No chain link fence shall be erected from the front building line forward, or on a side yard abutting a street. **(Ord. No. 96-38; 05-21-96)**

(B) No fence, wall, or other obstruction shall be erected within any public right-of-way without the written approval of the Zoning Administrator.

(C) No fence, wall or other obstruction shall be erected in violation of the Illinois Drainage Code. **(Sec. 4-3(c))**

(D) Every fence, wall or other obstruction shall conform to the special height restrictions applicable in areas near intersections. **(See Section 40-3-11(B).)** No fence, wall or other obstructions in any required front yard area shall exceed **four (4) feet** in height or in any required rear or side yard exceed **six (6) feet** in height.

40-4-4 SERVICE STATIONS.

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

(B) Every access way (curb cut) shall be located at least **two hundred (200) feet** from any fire station, school, public library, church, park, or playground.

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

40-4-5 HOME OCCUPATIONS. A "home occupation" means any business, profession, or occupation (excluding retail sales) for gain or support entirely within a residential building or on residential premises. Within this municipality every home occupation shall be considered a special use. No home occupation shall be established except in conformity with the following regulations.

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

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

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

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

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

(F) Day Care Center shall be considered a home occupation provided **eight (8)** or fewer children are cared for in the facility.

(G) **Signs.** A home occupation, being a special use, is subject to conditions established by the Village Board. A sign may be displayed by the home occupation based upon the recommendations and at the discretion of the Village Board. The sign shall be a maximum of **three (3) square feet** in size and shall not be illuminated or detract from the general character of the neighborhood. (See Sec. 40-5-3 for parking)

(H) **Applications.** All applications for a home occupation must be filed with the Village Clerk accompanied by a required business registration fee as determined by the Village Board. (Ord. No. 96-38; 05-21-96)

(I) **Authority to Revoke.** The Village Board retains the authority to revoke the special use permit if issued for home occupation if the restrictions imposed on the home occupation are not honored. Further, the Village Board retains the right to suspend or revoke the business license or permit granted if the regulations of the home occupation are not honored by the applicant. (Ord. No. 96-38; 05-21-96)

40-4-6 HOSPITALS, NURSING HOMES.
(A) The lot on which any hospital or sanitarium is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **five (5) acres**.

(B) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **one and one-half (1.5) acres**.

40-4-7 JUNK YARDS.
(A) No part of any junk yard--which includes any lot on which any **three (3)** or more inoperable vehicles are stored--shall be located closer than **five hundred (500) feet** to the boundary of any residential district.

(B) All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **eight (8) feet** high and of sufficient density to block the view from adjacent property.

40-4-8 SANITARY LANDFILLS.
(A) All sanitary landfills shall conform to the rules and regulations adopted by the Illinois Pollution Control Board pursuant to Sections 5, 22, and 27 of the Environmental Protection Act and consistent with the policy and purposes expressed in Section 20 thereof. Such rules and regulations contained within "Solid Waste Rules and Regulations," State of Illinois, Environmental Protection Agency.

(B) No sanitary landfill shall be operated within this Village without having first obtained a permit to operate from the Illinois Environmental Protection Agency. **(See County Code)**

40-4-9 SCHOOLS.

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

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

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

40-4-10 SWIMMING POOLS AND RECREATIONAL EQUIPMENT.

(A) Every swimming pool, **two (2) feet** or greater in depth, whether public or private, shall be enclosed by a wall or fence at least **four (4) feet** in height and must have a gate that shall be locked when the pool is not in use. An above-the-ground pool, **four (4) feet** or higher, need not have a fence with a gate, so long as (i) the ladder is removed when not in use, or (ii) the pool has a deck entrance with a gate that is locked when the pool is not in use.

(B) No swimming pool shall be placed on any lot between the principal building and the front lot line, or between the principal building and any side lot line abutting any street.

(C) No swing set, play set, trampoline, or similar recreational equipment shall be placed on any lot between the principal building and the front lot line, or between the principal building and any side lot line abutting any street.

(Ord. No. 12-04; 12-04-12)

40-4-11 DRIVE-IN THEATERS.

(A) The movie screen of every drive-in theater shall be located at least **one hundred (100) feet** from all street right-of-way lines and all lot lines, and at least **five hundred (500) feet** from the boundary of any residential district.

(B) Speakers shall be limited to the type designed to be heard by the occupants of one car only.

(C) Entrances and exits shall connect only to major streets, as determined by the Administrator, and shall not be located closer than **one hundred (100) feet** to any intersection. Admission sales shall be so located so that up to **ten (10) automobiles** can be waiting to enter the drive-in parking area without remaining on the street.

40-4-12 UTILITY SUBSTATIONS. Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

(A) Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, the structure housing any such facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. Furthermore, if the Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

40-4-13 KENNELS.

(A) Kennels shall be permitted only in the A-1 District.
 (B) Every kennel shall be located at least **two hundred (200) feet** from the nearest dwelling, and at least **one hundred (100) feet** from any lot line.

40-4-14 AGRICULTURAL ACTIVITIES.

(A) **Farm Animals.** No barn, stable, shed, or other structure intended to shelter farm animals (including, but not limited to, horses, cattle, hogs, and chickens) shall be erected closer than **two hundred (200) feet** to any lot line of residential property, closer than **three hundred (300) feet** to any existing dwelling of an adjoining owner of the property. Similarly, fences shall be erected or other means shall be taken to prevent farm animals from approaching closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. (Ord. No. 96-38; 05-21-96)

40-4-15 LIGHTING CONTROLS. Any light used for the illumination of signs, swimming pools, or for any other purpose shall be arranged so as to confine the direct light rays away from neighboring residential properties and away from the vision of passing motorist.

40-4-16 DOMESTIC ANIMAL PENS. Any structure or premises in which dogs, cats, or other household domestic animals are kept, maintained, boarded, bred, or cared for shall be placed behind the back corner of the principal building of the lot. No such structure or premises shall be allowed in the front yard of the building, or in a side yard abutting a street. (Ord. No. 96-38; 05-21-96)

40-4-17 PUBLIC BUILDINGS. In any district where municipally owned or other publicly owned buildings are permitted, the following regulations shall apply:

In any residential or business district, (R1 through R4; B-1). There shall be no permanent storage of heavy construction or heavy maintenance equipment (excavating, road building, or hauling equipment), unless same is in an enclosed building or enclosed within a solid wall or fence at least **six (6) feet** in height. Such storage areas, maintenance yards, or storage warehouses shall be located at least **twenty-five (25) feet** from any front or side property lines. (Ord. No. 96-38; 05-21-96)

40-4-18 OUTBUILDINGS. No outbuildings shall be placed in front of the front corners of the principal building of any lot. (Ord. No. 96-38; 05-21-96)

40-4-19 ROOF PITCH. The roof pitch on all residential structures shall be at least 5/12, except in the R3 district where the roof pitch shall be at least 3/12, the numerator describing the height of the roof and the denominator describing the width of the roof in proportion to the height. (Ord. No. 96-38; 05-21-96)

40-4-20 WIND GENERATORS/WINDMILLS. Minimum setbacks for wind generators/windmills (where such structures are specifically permitted pursuant to this Zoning Code) shall be as follows:

(A) The horizontal separation distance to the nearest lot line shall not be less than the height of the structure including blades; except that if the structure exceeds **ninety-nine (99) feet** in height, the horizontal separation distance to the nearest lot line shall be at least **one hundred (100) feet or eighty percent (80%)** of the height of the structure, whichever is greater.

(B) The horizontal separation distance to the nearest principal residential building shall not be less than the height of the structure including blades; except that if the structure exceeds **ninety-nine (99) feet** in height, the horizontal separation distance to the nearest principal residential building shall be at least **one hundred (100) feet or eighty percent (80%)** of the height of the structure, whichever is greater. (Ord. No. 08-06; 07-01-08)

40-4-21 - 40-4-24 RESERVED.

DIVISION II – SOLAR ENERGY CONVERSION

40-4-25 DEFINITIONS.

Applicant: The entity or person who has submitted an application for a Special Use Permit for a solar project.

Array: Multiple solar panels designed to work together to generate more power than a single panel.

Financial Assurance: Means reasonable assurance from a credit worthy party, examples of which include surety bond, cash escrow, or irrevocable letter of credit.

Ground-Mount: A solar energy system mounted on a rack or pole that rests or is attached to the ground. Ground-mount systems can be either accessory or principal uses.

Landowner: A person/persons or entity holding title to a tract of land.

Large Solar Project: Any solar project of photovoltaic cells for converting sunlight directly into electricity with a rated capacity of 25 Kilowatt or more, or any liquid system more than **seven hundred fifty (750) square feet** in size.

Operator: The entity responsible for the day-to-day operation and maintenance of the solar project, including any third-party subcontractors.

Owner: The entity or entities with an equity interest in the solar project, including their successors and assigns. Owner does not mean the landowner from whom land is leased for locating the solar project, unless the property owner has an equity interest in the solar project.

Panel: A panel containing photovoltaic cells for generating electricity.

Participating Parcel: A tax parcel on which the landowner has entered into a financial or easement agreement with the Owner, Operator or Applicant of a solar project.

Primary Structure: A structure that **one (1)** or more person(s) occupies the majority of the time for either business or personal reasons. Primary structure includes structures such as a residence, commercial building, hospital, and day care facility. Primary structures exclude structures such as hunting shed, storage shed, pool house, unattached garage and barn.

Professional Engineer: A qualified individual who is licensed as a professional engineer in the required area of expertise.

Roof-Mount: A solar energy system mounted on a rack that is fastened to or ballasted on a building roof. Roof-mount systems are accessory to the principal use.

Setback: The distance from the closest point of a solar project feature to a property line. Feature shall include any overhanging projections.

Small Solar Project: Any solar project with photovoltaic cells for converting sunlight directly into electricity with a rated capacity under 25 kilowatts that is connected to the electric grid or has provisions for connection, or any off-grid system directly wired to a primary structure or accessory building, or any liquid system **seven hundred fifty (750) square feet** or smaller.

Solar Energy System: A system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Project: All solar project features, substations and ancillary facilities, underground cable installations, and third-party transmission lines associated with the project up to the point of connection with a utility company power line or private home electrical wiring.

Solar Project Site: All parcels of land making up a solar project.

Substation: The apparatus that connects with the electrical collection system of the solar project and increases the voltage for connection with a utility's transmission line or high voltage electric transmission grid.

40-4-26

RESERVED.

DIVISION III – LARGE SOLAR ENERGY PROJECT

40-4-27 **PROCEDURE.** To obtain a special use permit and siting approval, the applicant must first submit a special use application to the Village. The special use application must contain or be accompanied by the following information:

(A) Solar energy project summary, including to the extent available, a general description of the project, including approximate name plate generation capacity, potential equipment manufacturer, number of panels, total system capacity, general location of the project.

(B) A description of the applicant, owner and operator, including the respective financial structures and financial statement.

(C) The name, address, and phone number of the applicant, owner, and operator and all property owners within the solar energy project site.

(D) A site plan for installation of the solar energy project showing the boundaries of the project, plus the location or planned location of each solar energy panel, guy wires and anchor bases (if any), primary structures, property lines (including identification of adjoining properties), setback lines, public access roads, substation, electrical cabling from panels to the substation, ancillary equipment, third party transmission lines, private access roads, wells, septic fields, existing easements, floodplain location and elevation (if applicable), wetland locations (if applicable), layout of all structures within the geographic boundaries of any applicable setback.

(E) Distances from any fence, solar energy panels or substation to all property lines.

(F) A topographic map of the proposed site including **two (2) foot** contour lines across the site and extending **one hundred (100) feet** in all directions from the limits of the site.

(G) All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Division, federal and state laws, and administrative provisions including, but not limited to, consultation report with the Illinois Department of Natural Resources, emergency plan, and evaluation of the geotechnical stability of the site for supporting all the necessary structures.

(H) Any other information normally required by the Village Zoning Code.

(I) Copies of all necessary access easements and necessary utility easements, copies of which shall be submitted to the Village Zoning Administrator.

(J) Legal description for the planned location of the solar energy project.

The applicant shall notify the Village of any changes to the information provided in the lists above that occurs while the special use application is pending.

40-4-28 **CHANGE OF OWNERSHIP.** Any change of ownership or lease control will require a new special use application and permit.

40-4-29 **USED EQUIPMENT.** Used equipment is permitted only if recertified to factory specification or better by the factory or an appropriate professional engineer.

40-4-30 **WEED AND GRASS CONTROL.** Applicant must present an acceptable weed control plan for property inside and outside fenced area for entire property. The operator during the operation of the solar energy project must maintain the fence and screening system and adhere to the weed and grass control program. If the operator does not do so, there can be a fine of up to **Five Hundred Dollars (\$500.00)** per incident if the fence is not secure or the weed and grass control program is not followed.

40-4-31 **SETBACKS.**

(A) Fences shall be a minimum of **twenty (20) feet** from any property line.

(B) Panels and their support structures shall be a minimum of **fifty (50) feet** from any property line.

(C) Panels and their support structures shall be a minimum of **one hundred (100) feet** from any primary structure.

(D) Substations shall be a minimum of **fifty (50) feet** from any property line.

(E) Substations shall be a minimum of **one hundred (100) feet** from any primary structure.

(F) New primary structures shall maintain the same setback from the fences, panels, and support structures as the site is required to observe.

40-4-32 **PROHIBITION.** No solar energy project governed by this Division shall be constructed, erected, installed, or located within the Village unless prior Special Use Permit application has been approved for each individual solar energy project pursuant to this Division. Upon special use approval, a construction permit shall be obtained from the Zoning Administrator prior to the commencement of construction of any solar energy project or any part thereof.

40-4-33 **APPEARANCE.** All solar energy project structure surfaces shall be a non-reflective, unobtrusive color. No advertising signs or graphic designs shall be permitted on the solar energy project structures. The manufacturer's identification and specifications shall be permitted.

40-4-34 **USE OF PUBLIC ROAD.** Prior to a Special Use Permit being granted, an agreement shall be entered into between the applicant/owner/contractor, the Village Street

Superintendent, and any other affected road authority. Such agreement shall detail the use of public roads for construction/ maintenance of said solar energy project to include but not limited to:

- (A) Access routes identified.
- (B) Overweight/Oversize loads presented.
- (C) Pre-construction survey of roads for potential damage including site photos and documentation of existing condition.
- (D) Schedule of construction operations.
- (E) Setting up an escrow fund, letter of credit, or surety bond to cover future road repairs.
- (F) Approval of Village utility permit if applicable.

Payment for Village costs to retain a consultant, if necessary, to make a study of any structure or road on the proposed route that the Village Street Superintendent determines may not carry the loads and weight and use during the solar energy project construction.

40-4-35 CERTIFICATION. All solar energy projects shall conform to applicable industry standards, including Village, State and National construction, electrical, and fire codes.

40-4-36 POWER LINES. All new power lines used between panels and from the panels to the substation and all communication lines shall be underground. In instances where they cross public roads, they shall be bored as required in any applicable agreements, and located underground at a depth the National Electrical Safety Code requires. In certain instances, the Village may authorize the location of utilities in public right of ways. The applicant shall install marker tape in any cable trench.

40-4-37 UTILITY LOCATION. The applicant shall become a member of the Illinois statewide one-call notice system (otherwise known as the joint utility locating information for excavators or “JULIE” and provide “JULIE” with all of the information necessary to update its records with respect to the solar energy project.

40-4-38 WARNINGS. A visible warning sign stating “High Voltage” must be placed at all points of ingress and egress to the solar energy project site. The sign must have at a minimum of **six (6) inch** letters. Visible, reflective, colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of any guy wires and along the guy wires up to a height of **fifteen (15) feet** vertically from the ground. The sign at the entrance to the facility shall include a **twenty-four (24) hour** emergency contact number.

40-4-39 HEIGHT. Ground or pole-mounted solar energy systems shall not exceed **sixteen (16) feet** in height when oriented at maximum tilt.

40-4-40 LIGHTING. If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.

40-4-41 AVIATION PROTECTION. For solar energy projects located within **five hundred (500) feet** of an airport or within approach zones of an airport, the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.

40-4-42 SCREENING. Systems equipment and structures shall be fully enclosed and secured by a fence with a minimum height of **six (6) feet**. The planning board and zoning board of appeals shall have the discretion to recommend a **thirty (30) foot** wide vegetative buffer consisting of a compact evergreen hedge or other type of evergreen foliage which shall be recommended along the entire perimeter of the facility, or an alternative buffer may also be considered. The buffer shall be planted at a minimum of **three (3) feet** tall and with the expectation that this hedge shall reach the height of at least **eight (8) feet** within **three (3) years** and shall be maintained in good condition. If a vegetative buffer is to be part of the solar farm development, a landscape plan should be submitted for review and approval. The landscape plan shall take into account the type(s) of evergreens to be planted, along with the proposed spacing of the planting, along with an evaluation of the soils. An alternative buffer may also be considered. Earth berms, other topographical features and existing wooded areas may be accepted in lieu or in combination of the above requirements, if they conceal the use from public view and are maintained.

40-4-43 STUDY REVIEWS – USE OF THIRD-PARTY CONSULTANT. The Village may desire to retain experts in the areas of engineering, planning, environmental, and legal in order to properly and efficiently review the documentation submitted by the applicant. In such instances the applicant will be advised of the required service and be provided an estimate of the expert's fees. Since such fees are beyond the customary fees associated with smaller and less complex matters, the applicant will be required to pay for the expert services as part of the review process and such payments shall occur regardless of the findings of the expert or the action ultimately taken by the Village on the application. After notice to the applicant of the cost of such required experts, the applicant will be required to escrow all fees into a Village account. The applicant will be provided with duplicate copies of consultant invoices and may comment on each invoice. A monthly statement of the manner in which the escrowed funds in the account are utilized will be made available to the applicant and if required the applicant shall replenish the account.

40-4-44 EMERGENCY PROVIDERS. The applicant shall submit to the local fire protection district(s), the Village police department, other relevant police authorities and the ambulance service a complete copy of the application for the solar energy project along with an analysis of the anticipated emergency needs.

The applicant shall cooperate with the emergency providers and develop emergency response plans that describe the potential emergency services that may be required and an analysis of the capabilities in terms of equipment and manpower to respond to potential emergency conditions. The applicant, owner, or operator shall work with local rescue authorities to provide training (at the applicant, owner, or operator's expense) to handle various situations. Level of training to be determined by the emergency service provider.

A copy of the approved emergency response plan will be required prior to approval.

Knox boxes and keys shall be provided at locked entrances for emergency personnel access.

40-4-45 MATERIAL HANDLING, STORAGE, AND DISPOSAL. All solid waste related to the construction, operation and maintenance of the solar energy project shall be removed from the site promptly and disposed of in accordance with all applicable local, state, and federal procedures.

All hazardous materials related to the construction, operation, and maintenance of the solar energy project shall be handled, stored, transported, and disposed of in accordance with all applicable local, state and federal procedures.

40-4-46 WILDLIFE. A qualified professional shall conduct a pre-construction site risk assessment study to estimate the impacts of the construction and operation of the proposed solar energy project on wildlife. The pre-construction site risk assessment shall be submitted with the application and shall include the following minimum information:

(A) A literature review of existing information on species and potential habitats and results of agency database queries for records of rare, threatened, and endangered species and important habitats such as Illinois Natural Areas Inventory sites and registered/dedicated nature preserves, land & water reserves, and wetland reserves within **two (2) miles** of the proposed solar energy project.

(B) A general mapping of the significant vegetation and land cover types, wildlife habitat and quality, and physical characteristics of the proposed solar energy project.

(C) A field examination that verifies results of the literature review and agency queries and that documents general site habitat conditions.

The applicant shall apply for consultation with the endangered species program of the Illinois Department of Natural Resources. The application shall include a copy of the agency action report from the endangered species program of the Illinois Department of Natural Resources.

40-4-47 WETLAND MITIGATION. Any mitigation of wetlands shall be done within the Village.

40-4-48 INVASIVE PLANTS. Any clearing of woods for the purpose of a solar energy project shall require the control of invasive plants in the cleared area for the length of the project.

40-4-49 STORMWATER AND DRAINAGE. All solar energy project sites comply with the Village "Soil Erosion and Sediment Control Ordinance" and the Village "Stormwater Drainage Code." All solar energy projects must comply with USEPA and IEPA groundwater drainage standards.

40-4-50 ENERGY DELIVERABILITY. At the time of applying for the special use application a written demonstration shall be provided that the applicant is in the queue to acquire an interconnect agreement. Then pre-operation of the project, a copy of an interconnect agreement with the appropriate electric utility, or a written explanation outlining why an interconnection agreement is not necessary should be provided to the Village.

40-4-51 INSTALLATION CERTIFICATION. A professional Engineer shall certify that the construction and installation of the solar energy project meets or exceeds the manufacturer's construction and installation standards.

40-4-52 MAINTENANCE. Each applicant, operator, or successor in interest, shall have the solar energy project facility inspected annually by qualified professionals, approved by the Zoning Department, and shall submit a certificate from said professionals reciting the annual maintenance done on the facility and stating that the facility is in good working condition and not a hazard to the public. Failure to submit annual certificate shall be grounds for revocation of the Special Use Permit by the Zoning Administrator.

40-4-53 COMPLIANCE WITH REGULATIONS. Nothing in this Division is intended to preempt other federal, state or local laws and regulations.

40-4-54 DECOMMISSIONING AND SITE RECLAMATION PLAN. A decommissioning and site reclamation plan must be submitted with the special use application to ensure that the solar energy project is properly decommissioned, and the site properly reclaimed. The decommissioning and reclamation plan shall, at a minimum, include:

- (A) Provisions describing the triggering events for decommissioning the solar energy project.
- (B) An estimate of the decommissioning costs certified by a Professional Engineer. The manner in which salvage value will be considered must be considered and documented. All costs will be itemized.
- (C) Provision for anticipated repairs to any public roads or facilities used for the purpose of reclamation of the solar energy project and all costs related to removal of structural materials and access roads.
- (D) Provisions for the removal of structures, concrete, debris and cabling, including those below the soil surface to a depth of **five (5) feet**.
- (E) Provisions for the disconnecting of all cabling from the utilities power lines.
- (F) Provisions for the restoration of the soil and vegetation.
- (G) A provision that the terms of the decommissioning plan shall be binding upon the owner or operator and any of their successors, assigns, or heirs by way of sale, gift and assignment in fact or at law or any other such transfer of financial interest of ownership in the solar energy project. Any successor or assigned shall assume the terms, covenants, and obligations of this plan and must agree to assume all reclamation liability and responsibility for the solar energy project.
- (H) A provision that this plan is governed by Illinois law.
- (I) A provision that indemnifies the Village with respect to any and all liability arising out of the decommissioning and site reclamation plan.
- (J) A provision that the Village shall have access to the site, pursuant to reasonable notice, to effect, inspect or complete decommissioning if necessary.
- (K) A provision that the applicant, owner and operator shall notify the Village Zoning Administrator by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the applicant, owner or operator as debtor, within **thirty (30) days** of the beginning of the proceeding.
- (L) Financial assurance, in the form of an irrevocable letter of credit, secured by the owner or operator, for the purpose of adequately performing decommissioning and site reclamation, in an amount equal to **one hundred fifty percent (150%)** the professional engineer's certified estimate of the decommissioning and site reclamation costs.
- (M) Every **five (5) years** a professional engineer's certified estimate of decommissioning and site reclamation costs will be submitted and an adjustment to the financial assurance will be required.

40-4-55 FINANCIAL ASSURANCE FOR DECOMMISSIONING AND SITE RECLAMATION.

- (A) At time of approval of the special use permit the amount of the irrevocable letter of credit shall be **one hundred fifty percent (150%)** of an independent engineer's cost estimate to complete the work of decommissioning and site reclamation.
- (B) It is recognized that there may be a salvage that will result from the reclamation process; however, the Village may limit the amount that can be used for determining the amount of the irrevocable letter of credit.
- (C) The owner, operator, applicant or legally responsible party shall gradually pay down the value of the irrevocable letter of credit by placing cash deposits in an escrow account over the first **seven (7) years** of the solar energy project as follows, and replacement letters of credit shall be simultaneously issued in the reduced amount.
 - (1) The owner of the solar energy project and the Village shall agree upon a mutually acceptable financial institution in excellent financial standing at which an escrow account shall be established.
 - (2) The Village shall be the beneficiary of the escrow account for the purpose of the reclamation of the solar energy project in the event that the solar energy project owner is unwilling to or incapable of decommissioning the solar energy project.

- (3) The owner of the solar energy project shall grant perfected security in the escrow account by use of a control agreement establishing the Village as an owner of record.
- (4) At all times the total combined value of the irrevocable letter of credit and the escrow account shall be increased annually as necessary to reflect rates of inflation over the life span of the solar energy project and the amount shall be equal to or exceed the following:
 - (a) The amount of the engineer's cost estimate as increased by known and documented rates of inflation since the solar energy project was approved; plus
 - (b) An amount for any future years left in the anticipated life span of the solar energy project at an assumed rate of inflation of **three percent (3%)** per year.
 - (c) Interest accrued on the escrow account that is over and above the total initial valuation value required shall go to the solar energy project owner, subject to the terms of the decommissioning and site reclamation agreement.
 - (d) In order to provide funding for the decommissioning at the time of decommissioning, the owner may exchange a new irrevocable letter of credit in an amount equal to the amount in the escrow account in exchange for the Village agreeing to a release of the full amount of the escrow account.

(D) The Village may draw down on the funds in the escrow account in the event of the following situations and when the owner shall determine not to take any action to remedy the conditions. The terms under which such action may be taken should be defined in the decommissioning agreement but generally be limited to the following examples:

- (1) In the event that any individual panel or component thereof ceases to function and becomes mechanically or electrically inoperative for more than **six (6) consecutive months** and the owner is not diligently repairing such panel or component thereof.
- (2) In the event that the owner declares any individual or group of panels or components to be functionally obsolete for tax purposes.

(E) The decommissioning and site reclamation provision shall be included as part of the project special use application. The irrevocable letter of credit and evidence of the escrow account must be submitted to the Village prior to any construction permit being issued.

(F) The Village reserves the right to require additional information or components to the plan as the Village deems necessary to ensure that an adequate proposal is in place to decommission the facility in its entirety and that adequate funds are available.

40-4-56 CESSATION OF OPERATION. If any solar panel(s) provided for in this Section has not been in operation and producing electricity for at least **two hundred seventy (270) consecutive days**, it shall be removed. The Village Zoning Administrator shall notify the owner to remove the panel(s). Within **thirty (30) days**, the owner shall either submit evidence showing that the system has been operating and producing electricity or under repair or remove it. If the owner fails to or refuses to remove the solar panel(s), the violation shall be referred to the Village Attorney for enforcement.

40-4-57 PENALTIES. The applicant's, owner's, or operator's failure to materially comply with any of the above provisions shall constitute a default under this Division.

Prior to implementation of the existing Village procedures for the resolution of such default, the appropriate Village body shall first provide written notice to the owner and operator, setting forth the alleged default. Such written notice shall provide the owner and operator a reasonable time period, not to exceed **thirty (30) calendar days**, for good faith negotiations to resolve the alleged default. If the Village determines in its discretion that the parties cannot resolve the alleged default within the good faith negotiation period, the existing Village ordinance provision addressing the resolution of such default shall govern.

40-4-58 RESERVED.

DIVISION IV – SMALL SOLAR ENERGY PROJECTS

40-4-59 REGULATIONS. This Section shall apply to small solar energy projects as defined above.

To receive a building permit for a small solar energy project, the following conditions must be met:

(A) The applicant shall submit to the local fire protection district a copy of plans for the solar energy project and shall provide any information that the fire district requests for the protection of emergency personnel in case of fire. The applicant shall furnish the Zoning Department a letter from the local fire department that they have been notified.

(B) The applicant shall submit to the local electric utility a copy of plans for the solar energy project and shall provide any information that the utility requests. The applicant shall follow all interconnection requirements and guidelines of the utility for the protection of personnel with the utility. The applicant shall furnish the Zoning Department a letter from the local electric utility that they have been notified and that the applicant is complying with their requirements.

(C) For any solar energy project or panel that will be mounted on a roof, the applicant shall furnish the Zoning Administrator a letter from a structural engineer that the roof construction is sufficient for the solar energy project or panel load.

(D) All small energy projects shall conform to applicable industry standards, including Village, State and National construction, electrical and fire codes.

Setback will be the same as for any accessory building.

No special use permit will be required.

40-4-60 COMMUNITY RESTRICTIONS. Restrictions on Solar Energy Systems Limited. Consistent with 765 ILCS 165/20, no homeowners' agreement, covenant, common interest community, or other contract between multiple property owners within a subdivision within the corporate boundaries of the Village shall prohibit or restrict homeowners from installing solar energy systems. No energy policy statement enacted by a common interest community shall be more restrictive than the Village's solar energy standards.

(Ord. No. 18-03; 06-05-18)

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ARTICLE V - SUPPLEMENTARY OFF-STREET PARKING AND LOADING REGULATIONS

40-5-1 APPLICABILITY OF ARTICLE. Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

- 40-5-2 EXISTING PARKING/LOADING FACILITIES.**
- (A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced below, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.
- (B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, additional off-street parking and loading facilities need not be provided, but parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored.
- (C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.
- (D) Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

- 40-5-3 PARKING DESIGN AND MAINTENANCE STANDARDS.**
- (A) **Spaces.**
- (1) Each required parking space shall be at least **ten (10) feet** wide and **twenty (20) feet** long and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way, public or private sidewalks or property lines.
 - (2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space. **(Ord. No. 96-38; 05-21-96)**
- (B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-four (24) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **twenty (20) feet** wide.
- (C) **Access Way.**
- (1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.
 - (2) No access way to any parking area shall be located within **thirty (30) feet** of any corner formed by the intersection of the rights-of-way of **two (2)** or more streets. At intersections where traffic control devices are installed, the Administrator may increase this requirement as necessary to prevent traffic hazards.
 - (3) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless two one-way drives, each **twelve (12) feet** wide, are provided.
 - (4) The access way to every parking area located in any residential zoning district shall be at least **ten (10) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either by one 2-way drive at least **twenty (20) feet** wide or by two 1-way drives, each at least **ten (10) feet** wide.

(D) **Lighting.** Any light(s) used to illuminate any parking area shall be arranged or shielded so as to confine direct light rays within the parking area boundary lines to the greatest extent practicable.

(E) **Maintaining Parking Surfaces.** At the owner's expense, all newly constructed or existing parking surfaces must be free of potholes, grass or other nuisances. (Ord. No. 96-38; 05-21-96)

40-5-4 LOCATION OF PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.

(B) No vehicle meeting any one or more of the following criteria: (1) manufacturer's gross vehicle weight rating exceeding **sixteen thousand (16,000) pounds**, (2) dual axles, (3) box or panel cargo area, or (4) mounted boom, lift, or similar attachment; may be parked in a residential district (except for normal loading, unloading, and service calls), unless a special parking permit has been obtained. Any special parking permit shall be issued at the discretion of the Board of Trustees, after considering the recommendation of the Zoning Board of Appeals, and shall apply only to the vehicle specified therein, and shall be valid only for a period not to exceed **one (1) year**, subject to renewal as of **January 31** of each year. Any vehicle for which a special parking permit is required and obtained may only be parked in the driveway of the subject residential lot. No vehicle repair work shall be permitted on any parking lot located in any residential district. (Ord. No. 07-07; 09-18-07)

40-5-5 BUSINESS AND INDUSTRIAL DISTRICTS.

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

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

(C) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

40-5-6 PARKING SURFACES. All parking areas and parking lots shall be graded and improved with either a compacted stone base at least **four (4) inches** thick, surfaced with at least **two (2) inches** of asphalt, or **four (4) inches** of concrete, or oil and chip base. (Ord. No. 00-107; 03-07-00)

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

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

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

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

ARTICLE VI - NONCONFORMITIES

40-6-1 PURPOSE OF ARTICLE. The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various residential, business, and industrial districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the over-taxing of parking facilities, the emission of noxious fumes or excessive noise, and/or the lowering of property values. The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

40-6-2 NONCONFORMING LOTS. Any vacant lot that does not conform to one or more of the lot size requirements of the district in which it is located may be used in the manner indicated at **Sections 40-6-3 and 40-6-4** if it:

- (A) Is of record on the date of the adoption or amendment of this Code; and
- (B) Has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by the applicable zoning code or other ordinances; and
- (C) Is at least **thirty (30) feet** wide.

40-6-3 SAME: RESIDENTIAL. On any such lot located in any district, any permitted structures may be erected, provided all the bulk (see definitions) and setback regulations of the particular district are observed. If the bulk and set back regulations cannot be met, a lot size/bulk variance is required pursuant to **Section 40-9-17 et seq. (Ord. No. 96-38; 05-21-96)**

40-6-4 SAME: OTHER DISTRICTS. On any such lot located in the business or industrial districts, any structure permitted in the particular district may be erected if the bulk and setback requirements of that district are met. If the bulk and set back regulations cannot be met, a lot size/bulk variance is required pursuant to **Section 40-9-17, et seq. (Ord. No. 96-38; 05-21-96)**

40-6-5 TWO OR MORE LOTS IN COMMON OWNERSHIP. If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the date of the enactment or amendment of this Code, and if one or more of those lots do not meet the minimum lot width, depth, and area requirements of the district in which they are located, the land involved shall be considered an undivided parcel for purposes of this Code. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code.

40-6-6 NONCONFORMING STRUCTURES. Any lawful structure which exists on the date of the enactment or amendment of this Code, but which could not be erected under the terms of this Code because of restrictions on lot size, height, setbacks, lot coverage, or other characteristics of the structure, or its location on the lot, may lawfully remain, subject to the following provisions:

- (A) **Enlargement, Alterations.** No such structure shall be enlarged or altered in any way which increases its nonconformity.
- (B) **Relocation.** No such structure shall be relocated unless, after relocation, it will conform to all the regulations of the district in which it is located.
- (C) **Reconstruction.** No such structure which is destroyed or damaged by any means shall be reconstructed if the Zoning Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless

after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Zoning Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

A bona fide construction contractor shall make the reconstruction cost estimate, and a licensed real estate appraiser shall determine the structure's market value at the time of loss. The owner of the damaged structure shall be responsible for transmitting these estimates to the Zoning Administrator.

40-6-7 NONCONFORMING USES OCCUPYING A STRUCTURE. If any lawful use occupying a structure exists on the date of the enactment or amendment of this Code, but would not be allowed under the terms of this Code, such a use may lawfully continue, subject to the following provisions:

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

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

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

(D) **Change of Use.** A nonconforming use occupying a structure shall not be changed except to a use permitted under the applicable district regulations.

(E) **Discontinuance of Use.** When a nonconforming use of a structure, or of a structure and premises in combination, is discontinued for **twelve (12)** consecutive months or for **eighteen (18) months** during any three-year period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-6-8 NONCONFORMING USE OF LAND. For information specific to mobile homes refer to **Section 40-4-**.

Any lawful use of land existing on the date of the adoption or amendment of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

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

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

(C) **Change of Use.** A nonconforming use of land shall not be changed except to a use that is permitted under the applicable district regulations.

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

40-6-9 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of structure or of land for which a permit was issued prior to the enactment of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is carried out and completed with diligence.

ARTICLE VII - ADMINISTRATION AND ENFORCEMENT

40-7-1 ZONING ADMINISTRATOR. The office of Zoning Administrator of this municipality is hereby established. The Zoning Administrator shall be the executive head of this office.

40-7-2 DUTIES. The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following 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 Village Board 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.

40-7-3 TEMPORARY CERTIFICATES OF ZONING COMPLIANCE. After the effective date of this Code, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until a 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 (A);
- (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 as determined by the Village Board. Temporary certificates of zoning compliance shall be valid for one year. The Administrator may renew such temporary certificates for successive one-year periods upon request in writing.

40-7-4 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.

40-7-5 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 Order.** 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.

40-7-6 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 Village Attorney.

40-7-7 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.

40-7-8 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)**, and/or **six (6) months** confinement.
(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.

ARTICLE VIII - SPECIAL-USES AND AMENDMENTS**DIVISION I - SPECIAL USE PERMITS**

40-8-1 DESCRIPTION. 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 use, 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.

40-8-2 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 40-7-3(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.

40-8-3 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.

40-8-4 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 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.

40-8-5 FACTORS CONSIDERED. In making their decision 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 public utilities and on traffic circulation on nearby streets; and
- (E) Whether there are any facilities nearby that require special protection.

40-8-6 DECISION BY BOARD OF APPEALS, STANDARDS. The 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. (**See Sec. 8-1.5**)

40-8-7 TEMPORARY USE PERMITS. 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 Village Board shall issue no temporary use permit for a period longer than **one (1) year** but may renew any such permit as they see fit.

40-8-8 RESERVED.

DIVISION II - AMENDMENTS

40-8-9 **PROCEDURE.** In accordance with Illinois law and the provisions of this Section, the Village Board 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 Village Board, the Zoning Administrator, the Planning Board, the Board of Appeals, or any party of interest.

In the event a proposed alteration of district boundaries or proposed change in the status of any use--whether permitted, special, or prohibited--so treated as a proposed amendment to the Zoning Code receives the favorable vote of at least **two-thirds (2/3)** of the members of the Village Board, said proposed change shall be considered a valid and proper amendment to the Code without the necessity of the Village Board's proposed amendment proceeding through further requirements of **Section 40-8-10**, et seq.

Upon any proposed alteration of district boundaries or proposed change in the status of any use, whether permitted, special, or prohibited as proposed by the Village Board upon passage by **two-thirds (2/3)** majority, said proposed change shall constitute a valid amendment to the Zoning Code accordingly.

Any proposed alteration of district boundaries or proposed change in the status of any use--whether permitted, special, or prohibited--so proposed by the Village Board which does not receive the favorable vote of at least **two-thirds (2/3)** of the members of the Village Board may thereafter be filed with the Zoning Administrator pursuant to **Section 40-8-10** pursuant to the procedure as therein provided under **Section 40-8-9** dealing with amendments to the Zoning Code, herein referred to as **Section 40-8-9** et seq. (**Ord. No. 97-64; 09-24-97**) (**See 65 ILCS 5/11-13-14**)

40-8-10 **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 Planning Board.

40-8-11 **HEARING.** The Planning Board 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.

40-8-12 **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 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. (**See Sec. 8-3.3**)

40-8-13 **ADVISORY REPORT/FINDINGS OF FACT.** Not later than **ten (10) days** after the public hearing, the Plan Commission shall submit their advisory report/findings of fact to the Village Board. The Plan Commission 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 party 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 Plan Commission 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 property in question, including changes (if any) which may have taken place since that property was placed in its present district classification.

40-8-14 **DECISION BY VILLAGE BOARD.** The Village Board shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Plan Commission's advisory report. Except as provided at **Section 40-8-15**, the Village Board, without further public hearing, may by simple majority vote, pass any proposed amendment or may refer it back to the Plan Commission for further consideration.

40-8-15 **WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED.** The favorable vote of at least two-thirds of the members of the Village Board 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 Plan Commission.

(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.

40-8-16 **NOTICE TO APPLICANT OF WRITTEN PROTEST.** In cases of written opposition to an amendment of this Code as prescribed in **Section 40-8-15(C)**, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment. **(See Sec. 8-3.7)**

ARTICLE IX - BOARD OF APPEALS & PROCEDURES

DIVISION I - ADMINISTRATION

40-9-1 BOARD OF APPEALS ESTABLISHED. The Zoning Board of Appeals of this municipality is hereby established in accordance with Illinois law. (**See Sec. 9-1**)

40-9-2 MEMBERSHIP, APPOINTMENT, COMPENSATION. The Board of Appeals shall consist of seven 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 Village Board. One 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 Village Board.

40-9-3 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 for **one (1) year**, one for **two (2) years**, one for **three (3) years**, one for **four (4) years**, one for **five (5) years**, one for **six (6) years**, and one for **seven (7) years**. With the advice and consent of the Village Board, 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.

40-9-4 MEETINGS. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such time 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 members of the Board shall constitute a quorum, and the affirmative vote of at least four members shall be necessary to authorize any Board action.

40-9-5 RECORDS. The Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order, or decision of the Board shall be filed immediately in the Board's office and shall be a public record.

40-9-6 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 Village Board may prescribe.

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

DIVISION II - APPEALS

40-9-10 NATURE OF APPEALS. 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 section. (See Sec. 9-2)

40-9-11 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. 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.

40-9-12 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.

40-9-13 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.

40-9-14 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 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.

40-9-15 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. (See Sec. 9-2.5)

40-9-16 RESERVED.

DIVISION III - VARIANCES (LOT SIZE)

40-9-17 DESCRIPTION. 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.

40-9-18 APPLICATION. Every application for a lot size/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. **(See Sec. 9-3.1)**

40-9-19 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.

40-9-20 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 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. **(See Sec. 9-3.3)**

40-9-21 STANDARDS FOR VARIANCES. The Board of Appeals shall not recommend nor shall the Village Board grant any lot size/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 or hardship to the applicant. More specifically the Board shall not recommend, nor shall the Village Board 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. **(See Sec. 9-3.4)**

40-9-22 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 in 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.

40-9-23 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 at **Section 40-8-9 et seq.**

40-9-24 FILING FEES. By resolution, the Village Board shall establish (and may periodically amend) a schedule of filing fees for the various permits and procedures listed in this Code. Said fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid by the applicant to the Village and are non-refundable. A current schedule of filing fees shall be maintained in the Administrator's office and filed with the Village Clerk. **(See Resolution No. 96-51 which establishes the fees in Addendum "A".)**

ADDENDUM "A"

ZONING FEES

Special Use Permit	\$35.00
Amendment of Special Use Permit	\$35.00
Variance	\$35.00
Appeals before the Zoning Board of Appeals pursuant to the Zoning Code	\$35.00

(Resolution No. 96-51; 11-04-96)