

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS

40-1-1 **PURPOSE.** The purpose of this Chapter is to regulate structures and land uses in order to preserve, protect, and promote the public health, safety, and welfare, and appearance through implementation of this City's comprehensive plan. More specifically, this Chapter is intended to assist in achieving the following objectives:

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

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

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

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

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

(F) To provide adequate and well-designed parking and loading space for all buildings and uses, and to reduce vehicular congestion on the public streets and highways;

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

(H) To provide for the efficient administration and fair enforcement of all regulations set forth in this Chapter;

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

(See 65 ILCS Sec. 5/11-13-1)

40-1-2 **JURISDICTION.** This Code shall be applicable within the corporate city limits of this municipality.

40-1-3 **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 40-1-4** unless the context clearly indicates otherwise; terms not defined as such shall have their standard English dictionary meanings.
- (B) Words denoting the masculine gender shall be deemed to include both genders.
- (C) Words used in the present tense shall include the future tense.
- (D) Words used in the singular number shall include the plural number, and the plural the singular.
- (E) The term "shall" is mandatory; the term "may" is discretionary.
- (F) The term "this municipality" shall mean the city.
- (G) The words "lot," "parcel," and "site" shall be synonymous.
- (H) The words "abutting," "adjacent," and "contiguous" shall be synonymous.
- (I) The words "enlarge," and "expand" 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.

40-1-4 DEFINITIONS. The following words, terms and phrases, when used in this Chapter, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning.

Abandon: In relation to nonconformance, to discontinue a nonconforming use with the intention of permanent cessation.

Abutting: Having a common lot line or district line.

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 or the principal structure served, but without occupancy.
- (C) Located on the same lot as the principal use or structure served.

Administrator: The official appointed by the Mayor with the advice and consent of the City Council to administer this Code, or the administrator's representative, and is synonymous with "Zoning Administrator".

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

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

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

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

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

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

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

Bed and Breakfast: Typically, an owner-occupied, large restored or converted residential structure of unique architectural or local historical quality providing accommodations for a charge to the public with no more than **five (5) rooms** for transient guests for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period.

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

Board of Appeals: The Zoning Board of Appeals of the City.

Building: Any covered structure permanently affixed to land and designed to shelter persons or chattel.

Building Height: The vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs. Chimneys, towers, cooling towers, and similar projections (other than signs) shall not be included in calculating building heights.

Bulk: Any one or any combination of the following structural or site design characteristics:

- (A) Size or height of structure;
- (B) Location of exterior walls at all levels in relation to lot lines;
- (C) Lot area;
- (D) Yards or setbacks.

Centerline:

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

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

Club/Lodge: A nonprofit association 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).

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

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

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

Corrective Action Order: A legally binding order issued by the Zoning Commission, in accordance with the procedures set forth in this Chapter to effect compliance with this Chapter.

Day Care Center: See "Nursery School."

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

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

Dimensions: Refer both to lot width and lot depth.

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

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking.

Drive-In Restaurant: An establishment principally used for the sale of fast-order food. Fast order food means:

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

Drive-In Theater: A tract of land developed with facilities for projecting motion pictures on an outdoor screen for viewing from the patrons' automobiles parked on the premises.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public.

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

Dwelling, Single-Family: A detached dwelling containing one 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 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.

Enclosed: As applied to a building, covered by a permanent roof and separated on all sides from an adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

Enforcement Officer: The Chief of Police or an officer designated by the Chief of Police.

Enlarge: To increase the size of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: To build or construct.

Establishment: Either of the following:

(A) an institutional, business, commercial, or industrial activity that is the sole occupant of one or more buildings.

(B) an institutional, business, commercial, or industrial activity that occupies a portion of a building such that:

- (1) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and
- (2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

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

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

Flood Elevation, Regulatory: The elevation of the most severe flood that, on the basis of corps of engineers' data, may be expected to occur once every **one hundred (100)** years.

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

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; and enclosed porches.

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

Group Home: A single dwelling in which **four (4)** or more unrelated persons live together as a single housekeeping unit with or without supervision. Examples of group

homes would be homes for service-dependent populations, dormitories, fraternity/sorority houses, etc.

Hereafter: Any time after the effective date of this Chapter.

Home Occupation: Any business, profession, or occupation conducted for gain entirely within a dwelling or on residential premises in conformity with the provisions of this Code.

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

Intensify: To increase the level or degree of.

Intersection: The point at which two or more public rights-of-way (generally streets) meet.

Junk Yard: A tract of land, including 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 **one (1)** 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.

Livestock: Any animal not normally considered as a household domestic animal. Animals normally used for agriculture purposes, including horses, goats, cattle, sheep, chickens, ducks, swine, and mules, are considered to be livestock.

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

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

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot. Application of minimum lot width and minimum lot depth should not be construed to satisfy minimum lot size.

Lot, Corner: A lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such sides shall be deemed front lot lines.

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 right-of-way.

Lot Line, Rear: An interior lot line which is most distant from and most nearly parallel to the front lot line.

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

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

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

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

Manufactured home Park: A parcel in single ownership/control developed with facilities for accommodating occupied mobile homes in accordance with the requirements of the manufactured home park ordinance.

Manufactured Home Subdivision: A parcel of land divided, configured, and improved for the purpose of selling lots specifically for the placement of manufactured homes (Class B Manufactured Housing) at a density of not more than **eight (8)** units per gross acre and composing a total of not more than **two (2) acres** in total.

Manufactured Housing: Classes A, B, or C, which are further defined as follows:

(A) **Class A: Modular Housing.** A building assembly or system of subassemblies designed for habitation as a dwelling unit, including the necessary electrical, plumbing, heating, ventilation, and other service systems, made or assembled by a manufacturer on or off the building site for installation and/or assembly on the site, and satisfying the following criteria:

- (1) Affixed to a permanent, full-perimeter load bearing foundation (façade is not acceptable) as defined in Chapter 3, Figure R-303 of the 1986 Edition with 1987 and 1988 Amendments to the One and Two Family Dwelling Code. House must be set on load bearing perimeter foundation with pillars supporting the joining walls.
- (2) Approved and certified by the Illinois Department of Public Health (See Illinois Manufactured Housing Code).
- (3) Having a minimum width of **twenty-four (24) feet**.
- (4) Having a roof pitch of 1 in 4.

Modular Housing as defined herein is permitted in any residential district. No distinction is made between this form of housing and site-built housing.

(B) **Class B: Mobile Homes Registered With a Motor Vehicle Title Number.** Factory built housing transportable in **one (1)** or more sections to the site, built on a permanent chassis, and designed to be used as a dwelling unit when connected to the required utilities, and having the plumbing, heating, air-conditioning, and electrical systems contained therein, and in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974 (HUD Code).

(C) **Class C: Factory-Built Housing.** All manufactured housing not meeting the above criteria. Class C factory built housing shall not be permitted for use as a dwelling unit in any residential district. Existing Class C factory built housing shall be considered nonconforming structures in any district. Existing occupied Class C factory building housing may not be occupied if it does not offer a decent, safe, sanitary living environment.

Materially: As applied to the impact of one thing or another, significantly or substantially.

Nonconforming: As applied to a lot, structure, or use, lawfully existing on the effective date of this Code, but not in compliance with the applicable provisions thereof.

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

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

Nursery School: An establishment for the part-time care and/or instruction at any time of day of **four (4)** or more unrelated children of pre-elementary school age.

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

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

Overlay District: A zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, etc.

Parking Area/Lot, Off-Street: Land that is improved in accordance with this Code and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An off-street parking area, depending on the circumstances of its use, may be either a principal use of an accessory use.

Parking Space, Off-Street: An area at least **twenty (20) feet** long and **ten (10) feet** wide within an off-street parking area or garage, used for the storage of **one (1)** or more passenger motor vehicles.

Permitted Use: Any use which is or may be lawfully established in a particular district, provided it conforms with all the requirements applicable to such a district.

Person: Any individual, firm, association, organization, or corporate body.

Planning Commission: The Planning Commission of this Municipality.

Plot: A parcel of land consisting of **one (1)** or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

Pole Barn: A typically metal clad structure most often utilizing wooden poles and trusses for support with unfinished, uninsulated interiors. Such structures are normally used for agricultural purposes, for construction trade storage, or for general storage and not intended for human habitation.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Property Line: See Lot Line.

Reconstruct: As applied to nonconforming structures, to rebuild after partial or total destruction.

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

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

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

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

Restrictive: Tending to keep within prescribed limits.

Retail: The sale of goods or services directly to the consumer rather than to another business.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to this Municipality or to another unit of government for streets and alleys.

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. At a sanitary landfill the refuse is periodically covered with topsoil.

Satellite Dish Antenna: A combination of:

(A) Dish antenna whose purpose is to receive communications or other signals from orbiting satellites and other extraterrestrial sources.

(B) A low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals.

(C) A coaxial cable whose purpose is to carry the signals into the interior of the building.

(D) Any supporting structures, guy wires or similar devices intended to secure or mount the antenna dish.

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

Service-Dependent Population: Those persons who, by reason of mental or physical disability, require supervision in a quasi-parental relationship but do not require medical or nursing care on site. A service-dependent population shall not include persons for whom such services are a requirement of a sentence upon conviction of a criminal offense or whose need for such service arises during or immediately following a sentence of incarceration for a criminal offense nor for the treatment or rehabilitation of drug or alcohol addiction.

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

Setback: The minimum horizontal distance between a street right-of-way line and the nearest wall of a building or side of a structure facing such street line, or the edge of the area of operation of a principal use involving no building or structure. For purposes of this Chapter, setback requirements shall not in any manner regulate the placement of fences or freestanding walls.

Site-Built Housing: Structures intended for residential use built from the sub-component level with a minimum of off-site assembly. Site-built housing must be constructed on a permanent foundation or basement. Pole barns shall not be considered site-built housing.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home (Class B or C factory built housing) to conceal the underside thereof.

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

Special Use Permit: A permit issued in accordance with the provisions of this Chapter to regulate development of a special use.

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

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

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

Street, Private: Any street providing access to abutting property that is not maintained by and dedicated to this City or any other public entity.

Stringent: Binding, exacting.

Structure: Anything constructed or erected on the ground, or attached to something having fixed location on the ground. All buildings are structures, but all structures are not buildings. For the purposes of this Chapter, fences or freestanding walls shall not be considered structures.

Structure, Temporary: Any structure that is not attached to a permanent foundation.

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

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

Travel Trailer: A mobile structure designed for temporary occupancy.

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

Use Variance: A type of amendment (not a variance) that allows a use in a district where such use would not be allowed under existing provisions of this Code.

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

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

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

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

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

Yard, Rear: A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

40-1-5 INTERPRETATION, CONFLICT WITH OTHER ORDINANCES.

Every provision of this Chapter shall be construed liberally in favor of this Municipality, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Chapter 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 City shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter.

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

ARTICLE II

ADMINISTRATION AND ENFORCEMENT

DIVISION I - GENERALLY

40-2-1 **ADMINISTRATION GENERALLY.** The Mayor shall appoint the administrator of this Code. The City Clerk shall disseminate and publicize, as necessary, information and announcements relative to the issue of zoning, provide permit requests, review and pass along completed requests to the Zoning Commission for Commission consideration, and maintain relative records including the official Zoning Map.

40-2-2 **ZONING COMMISSION.**

(A) The Zoning Commission shall be appointed by the Mayor with the advice and consent of the City Council. Terms of appointment shall not exceed **four (4) years**. The Commission shall consist of **five (5) members**. Members must have resided in the area of zoning jurisdiction declared by the City for at least **one (1) year** preceding appointment. Service on the Commission shall be uncompensated. Terms of persons appointed to the first Commission shall be staggered as follows: Chair – 4 years, 2 members – 3 years, 1 member – 2 years, 1 member – 1 year.

(B) Zoning Commission meetings will be chaired by a Commission member so appointed by the Mayor. The chairperson may serve a term of **four (4) years**, but may not be reappointed consecutively as chair. Meetings may be conducted in the absence of the Chair, and led by an Acting Chairperson so appointed by the Chair. The City Attorney shall serve as legal counsel to the Zoning Commission.

40-2-3 **ZONING COMMISSION MEETINGS.**

(A) Meetings of the Zoning Commission shall be conducted publicly, and only in the presence of a quorum of a simple majority of Commission members. A record of meetings shall be kept, as well as a record of any official actions taken. Minutes and records from these meetings shall be kept in the City Clerk's office and made available to the public.

(B) All meetings, whether regularly scheduled or special, shall be preceded by public announcement. Regular meeting schedules shall be published annually. Furthermore, public notices of consideration of permits requests and amendments shall be made not more than **thirty (30) days** and not less than **fifteen (15) days** prior to the hearing. Public notice shall consist of announcement of time, date, and place of the meeting, and the nature of the proposal(s) to be discussed. Such notice shall be sent by first class mail to the applicant and those property owners of record whose property lies within **two hundred fifty (250) feet** of the proposed use. Additionally, notice shall be published in a newspaper of general circulation within the City.

- 40-2-4** **ZONING COMMISSION DUTIES.** The Zoning Commission shall:
- (A) Meet bi-monthly;
 - (B) Review all special, temporary, and variance, requests, and issue decisions on these requests;
 - (C) Review all complaints received about zoning violations from citizens and, if necessary, issue corrective action orders;
 - (D) Ensure the compatibility of the Zoning Code with the comprehensive plan;
 - (E) Receive public comment on issues related to zoning and make appropriate recommendations to the City Council;
 - (F) Consider requests for amendments to the Zoning Code and make appropriate recommendations to the City Council; and
 - (G) Perform other duties regarding zoning as directed by the Mayor.

40-2-5 **ZONING COMMISSION DECISIONS.** Zoning Commission decisions on special use permit requests, temporary use requests, and variance requests shall be made by roll-call vote of the Commission members, with a simple majority enacting the decision. In the absence of appeals, decisions made by the Zoning Commission shall be an expression of the will of the people of the City and shall be enforceable as law.

DIVISION II – PERMITS

- 40-2-6** **PERMITS GENERALLY.**
- (A) Information provided to the Zoning Commission must be truthful and accurate to the best knowledge of the applicant. Knowingly providing inaccurate, false, or misleading information may result in immediate suspension of the process of consideration, or revocation of permits issued under such pretense and corrective action orders requiring cessation of or removal of uses or structures permitted under these conditions.
 - (B) The Administrator shall verify that the permit request is properly completed and shall promptly transmit the permit request to the Zoning Commission for consideration at the next meeting that permits compliance with the public notification requirements.

40-2-7 **SPECIAL USE PERMITS.** This Chapter creates various districts within the community, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending on their precise location, manner of operation, and other factors. Such special uses require careful case-by-case reviews to determine if

compatibility can be achieved. Special uses may be allowed only after review, public discussion, approval by simple majority, and issuance of a special use permit by the Zoning Commission. Special use permits shall be effective for a period of **eight (8) years** from the date of issuance.

40-2-8 SPECIAL USE PERMIT APPLICATION. Every applicant for a special use permit shall submit to the Zoning Administrator, in narrative and/or graphic form, the items of information enumerated below:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from the applicant;
- (C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar information;
- (D) Location of the proposed structure or use and its relationship to existing adjacent structures or uses;
- (E) Area and dimensions of the site of the proposed structure or use;
- (F) Height and setbacks of the proposed structure or use;
- (G) Number and size of proposed dwelling units, if any;
- (H) Location and number of proposed parking/loading spaces and accessways; and,
- (I) Other relevant information requested by the Zoning Commission.

40-2-9 SPECIAL USE PERMIT HEARING AND DECISIONS. Consideration of special use permit requests shall be conducted in public with public commentary solicited. At the conclusion of such deliberations, the Zoning Commission must approve or deny the viability of the permit request based on the following factors:

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

40-2-10 TEMPORARY USE PERMITS. Temporary use permits will essentially be treated the same as special use permits. Of particular concern shall be the length of time requested for the permit. Temporary use permits shall in no circumstance

be issued for more than **one (1) year**. Temporary uses extending beyond **one (1) year** must reapply to renew the permit prior to its termination. It shall be the responsibility of the permit holder to initiate reapplication.

DIVISION III – VARIANCES

40-2-11 VARIANCES. Variances are relaxations of the requirements of this Chapter that are applicable to a particular lot or structure. A request for variance will be essentially treated the same as a special use request. In addition to that information required for a special use permit request, the following information will also be required for consideration of a variance request:

- (A) Specific reference to the sections of the chapter containing the regulations which, if strictly applied, would cause a serious problem; and,
- (B) Other relevant information requested by the Zoning Commission.

40-2-12 STANDARDS FOR VARIANCES.

(A) The Zoning Commission shall not grant variances unless, based on the evidence presented, they determine that:

- (1) The proposed variance is consistent with the general purposes of this Chapter;
- (2) Strict application of the district requirements would result in great practical difficulties or hardships to the applicant, and prevent a reasonable return on the property;
- (3) The proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardships, and allow a reasonable return on the property;
- (4) The plight of the applicant is due to peculiar circumstances not of his/her own making;
- (5) The peculiar circumstances engendering the variance request are not applicable to other property within the district, and therefore, that a variance would be more appropriate than an amendment (rezoning); and,
- (6) The variance, if granted, would not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of this City's comprehensive plan.

(B) Based on these standards, the Zoning Commission shall render a decision within **thirty (30) days** of the relevant public hearing delineating applicability of the merits of a request to each of the standards listed, a statement of acceptance or denial, and, optionally, recommendations for alternative forms of relief. The Zoning Administrator shall have the right to make administrative variances of up to **ten percent (10%)** of the proscribed standards.

DIVISION IV – AMENDMENTS

40-2-13 AMENDMENTS GENERALLY. The City Council may amend this Chapter in accordance with **65 ILCS 5/11-13-14** and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, conditional, or prohibited) shall be deemed proposed amendments. Amendments may be proposed by the City Council, the Zoning Commission, or any other interested party.

40-2-14 AMENDMENT REQUESTS. Every proposal to amend this Chapter shall be filed with the City Clerk as prescribed. The Clerk shall promptly transmit such proposal, together with supporting documentation, to the Zoning Commission for public hearing. Notice of public hearing will be generated the same as other zoning requests.

40-2-15 AMENDMENT REQUEST ADVISORY FINDINGS AND RECOMMENDATIONS. Within **thirty (30) days** after the public hearing, the Zoning Commission shall submit an advisory report and recommendation to the City Council. The report shall state the Zoning Commission’s recommendations regarding adoption of the proposed amendment, and the Commission’s rationale for that recommendation. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Zoning Commission shall also include in their advisory report finding of fact concerning each of the following matters:

- (A) Existing use and zoning of the property in question;
- (B) Existing use and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted in existing regulations;
- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially or most recently zoned; and,
- (F) The effect the proposed rezoning would have on implementation of the City’s comprehensive plan.

40-2-16 ACTION ON AMENDMENT REQUESTS. The City Council shall act on every proposed amendment at the next regularly scheduled meeting following submission of the Zoning Commission’s advisory report. Without further public hearing, the Council may pass any proposed amendment or refer it back to the Zoning Commission for further consideration, by simple majority vote of all members then holding office. The favorable vote of at least **two-thirds (2/3)** of all the members of the Council is required to pass an amendment to this Chapter when opposed in writing 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.

DIVISION V – CORRECTIVE ACTION ORDERS

40-2-17 **CORRECTIVE ACTION ORDERS.** Whenever a use, structure, or work thereon, is found to be in violation of this Chapter, the enforcement officer shall seek corrective actions from the responsible party. At the discretion of the enforcement officer, either informal or formal corrective action orders shall be issued. Informally, the enforcement officer may communicate the violation to the responsible party and, within the terms of this Chapter, negotiate appropriate corrective actions. Should informal attempts to achieve corrective actions prove unsuccessful, the enforcement officer shall issue a corrective action order in writing. The written corrective action order shall negate any previously negotiated arrangements and shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the issuing enforcement agency if desired;
- (F) The date by which an appeal of the corrective action order must be filed, and statement of the procedure for filing; and,
- (G) A statement that failure to obey a corrective action order may result in criminal prosecution and imposition of fines.

40-2-18 **SERVICE OF CORRECTIVE ACTION ORDERS.** A corrective action order issued shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (A) Served upon the offender personally;
- (B) Sent by registered mail to the offender's last known address; or,
- (C) Posted in a conspicuous place on or about the affected premises.

DIVISION VI – VIOLATION OF REGULATIONS

40-2-19 **STOP ORDERS.** Whenever work is being done in violation of this Chapter, the Zoning Commission, the Administrator, or the enforcement agencies of the City may state that the violation must cease immediately. In such case, the corrective action order is equivalent to a stop order.

40-2-20 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Chapter, whenever the Administrator, the Chairperson of the Zoning Commission, or the enforcement agencies of the City determines that a violation of this Chapter poses an immediate peril to life or property, he/she may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-2-21 **COMPLAINTS.** Whenever any violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the City Clerk. The City Clerk shall record such complaints, initiate investigation, and, if necessary, institute appropriate corrective action.

40-2-22 **SCHEDULE OF FEES.** All fees indicated below shall be paid to the City Clerk and will be non-refundable. Such fees are intended to defray to administrative costs associated with the processing of the listed permits/procedures. They do not constitute a tax or other revenue-raising device.

(A)	Special Use Permit	\$25.00
(B)	Temporary Use Permit	\$25.00
(C)	Variance Permit	\$25.00
(D)	Amendments	None
(E)	Appeals	None

DIVISION VII – APPEALS

40-2-23 **APPEALS GENERALLY.** Any person aggrieved by any zoning decision or order in any matter related to the interpretation or enforcement of any provision of this Chapter may appeal to the Zoning Board of Appeals. Every appeal shall be made in accordance with **65 ILCS 5/11-12-13**, and the provisions of this Section.

40-2-24 **ZONING BOARD OF APPEALS.** The Zoning Board of Appeals shall be the City Council.

40-2-25 **RECORDS.** The Board of Appeals shall keep minutes of its proceedings and records of its decisions. Such minutes and records shall be filed with the City Clerk and be available for public inspection.

40-2-26 **FILING APPEALS.** Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the City Clerk a written notice specifying grounds for the appeal. The City Clerk shall notify the Board o Appeals within **five (5) days** of receipt of the appeal and pertinent records.

40-2-27 **STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless there exists sufficient evidence that a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board or a circuit court grants a restraining order for due cause, and so notifies the City Clerk.

ARTICLE III

NONCONFORMANCE

40-3-1 **INTENT.**

(A) Within the districts established by this Chapter or amendments that may later be adopted there exists: lots, structures, uses of land and structures in combination, characteristics of use, and signs which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter. It is the intent of this Chapter to permit these nonconformities to continue for the duration of their natural life and not to encourage their demise.

(B) Circumstances also exist, though, that preclude identical treatment of all nonconformities. As such, this Article proscribes specific requirements for certain types of nonconformities so as to adequately ensure due regard for public safety and enhanced compatibility of uses.

(C) Nonconforming uses are declared by this Chapter to be incompatible with permitted uses in the districts involved. To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which actual building construction has been carried on diligently.

(D) Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavating or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that such work shall be carried on diligently.

40-3-2 **PERMISSIBLE ACTIVITIES.** Except as specifically described below, nonconformities shall be permitted to continue for their natural lives until intentionally abandoned. Continuation shall include, but not be limited to, hours of operation, means of delivery, parking arrangements, etc. Furthermore, nonconformities shall not be prohibited during their existence from the following:

(A) The sale or transfer of deeds while sustaining the nonconforming use;

(B) The enlargement, expansion, or extension of the nonconforming use except as limited below, so long as due and diligent regard is given to adjacent conforming use;

(C) The replacement with new structures of like dimensions of structures destroyed by catastrophic, unintentional occurrences such as wind, flood, earthquake, or fire except as limited below;

(D) The conversion of the nonconforming use in effect at the time of adoption of this Chapter to another nonconforming use that, at the discretion of and

under terms set by the Zoning Commission, is equally appropriate or more appropriate to the district than the existing nonconforming use;

(E) Ordinary repairs and maintenance, including plumbing, carpentry, wiring, etc., necessary to ensure a safe, attractive, nuisance-free environment; or,

(F) Displaying existing signage so long as the nonconforming sign is not enlarged from its size at the time of adoption, nor illuminated if not illuminated at the time of adoption.

40-3-3 LIMITATIONS ON NONCONFORMITIES.

(A) In exception to the permitted activities above, and for purposes of public safety, nonconforming manufactured housing units shall not be permitted to enlarge or expand unless such structures can be made to comply with the current relevant regulations contained in the HUD Code.

(B) In exception to the permitted activities above, nonconforming manufactured housing destroyed as indicated in **Section 40-3-2(C)** shall only be replaced by manufactured housing conforming to the current relevant regulations of the HUD Code.

40-3-4 PROHIBITION OF NONCONFORMITIES AFTER ABANDONMENT.

(A) Nonconformities shall not thereafter be used except in conformity with the regulations of the district in which it is located when, as declared by the Zoning Administrator, the nonconforming use is abandoned for at least **forty-five (45) days**. Nonconformities shall be declared "abandoned" when the Zoning Administrator determines that there exists substantive evidence that the nonconforming user permanently intends to discontinue the nonconformance. Such evidence may include, but not be limited to, oral and/or written statements by the nonconforming user avowing such intent, or permanent departure of the nonconforming user from the location of the nonconformity without evidence intent to sell, lease, or transfer deed.

(B) The Zoning Administrator shall notify the Zoning Commission at their next regularly-scheduled meeting of the declaration of abandonment and present evidence supporting that declaration. The Zoning Commission shall either affirm or nullify the declaration based on the evidence presented. If the declaration is affirmed, the date of declaration will remain that originally entered by the Zoning Administrator.

40-3-5 PROHIBITION OF NONCONFORMITIES AFTER MOVEMENT. A nonconformity shall be prohibited for any reason over any distance whatever it is physically moved from its current resting place.

40-3-6 SPECIAL USES SHALL NOT BE NONCONFORMING USES. Any use which is designated as a special use in a district under the terms of this Chapter shall, upon adoption or subsequent change or revision of this Chapter, be considered permitted and shall not be considered as a nonconforming use.

ARTICLE IV - ZONING DISTRICTS

DIVISION I - GENERAL REGULATIONS

40-4-1 GENERALLY.

(A) In order to implement the regulatory scheme of this Code, this entire municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA</u>
Residential District	R-1	1 acre
Residential District	R-2	1 acre
Primary Business District	C-1	1 acre
Highway Business District	C-2	1 acre
General Industrial	G-1	1 acre
Non-Urban	NU	3 acres
Flood Plain Overlay	OFP	None

(B) The minimum area requirement, which is intended to prevent spot zoning, establishes the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the areas of numerous non-contiguous parcels, when aggregated, happen to equal or exceed the minimum area indicated above.

40-4-2 ZONING MAP AND DISTRICT BOUNDARIES.

(A) The boundaries of the listed zoning districts are hereby established as shown on the official zoning map of this municipality. This official map, including all notations and other information thereon, is hereby made a part of this Code by reference. The official zoning map shall be kept on file in the City Clerk’s office.

(B) If changes to the map are made during any calendar year, the Zoning Administrator shall request that the City Clerk publish a new official map including those changes not later than **March 31st** of the following year.

40-4-3 DETERMINING DISTRICT BOUNDARIES. In determining with

precision what territory is actually included within any zoning district, the following rules shall apply:

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

- | | |
|---|------------------|
| (1) Center line of any street,
alley or highway | Such centerline. |
| (2) Lot line | Such lot line. |

- | | | |
|-----|---|----------------------------------|
| (3) | Railroad tracks | Right-of-way line of such tracks |
| (4) | Stream | Center of such stream |
| (5) | Section lines, quarter section lines, quarter-quarter section lines, survey lines | Such lines |

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

(C) The regulatory 100-year flood elevation at any point in question shall determine where the floodplain overlay district boundary is located on the land.

(D) Whenever territory is annexed into this City, the City Council shall determine its district classification at the time of annexation.

40-4-4 GENERAL PROHIBITION. No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Code. Similarly, no lot or part thereof shall be used, occupied, or developed except in conformity with the provisions of this Code.

40-4-5 UNLISTED USES PROHIBITED. Any use not listed specifically as a permitted use or special within a particular district shall be deemed prohibited. Prohibited uses shall only be made otherwise by the process of amendment.

40-4-6 TEMPORARY USES. Except as specifically provided otherwise in this Code, no temporary structure and/or use shall be permitted without issuance of a temporary use permit.

DIVISION II – R-1 RESIDENTIAL DISTRICT

40-4-7 R-1 RESIDENTIAL DISTRICT. The R-1 Residential District is best suited for single-family, site-built dwellings and related educational, religious, and recreational facilities. Regulations relating to the R-1 Residential District are intended to respect the integrity of the neighborhoods, ensure the safety of its residents, maintain and enhance property values, and provide for the future growth of residential living in the community.

40-4-8 **R-1 DISTRICT PRINCIPAL BUILDINGS.** Individual lots in the R-1 Residential District shall not contain more than **one (1)** principal building, which shall be the dwelling unit and shall be taxed as real estate. It shall not be possible for any structure in R-1 Residential District to pay mobile home privilege tax. **(Ord. No. 2005-09-02; 10-11-05)**

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

Buildings accessory to the needs of the permitted uses above (garages, storage sheds, etc.)

Class A manufactured housing (modular homes).

Home occupations.

Libraries and public buildings.

Parks, public schools, and public recreation buildings.

Single-family site-built dwellings.

40-4-10 **R-1 SPECIAL USES.**

Bed and breakfast inns.

Cemeteries.

Churches and religious institutions.

Day care facilities.

Group homes.

Insurance broker's and insurance agent's offices.

Multi-family residences.

Nursing homes.

Physician's offices.

Utility substations with screens.

(Ord. No. 2004-006-02)

40-4-11 **LOT SIZE.** Lots within the R-1 Residential District shall be no smaller than **fifty (50) feet** by **one hundred (100) feet**. Multi-family residential units shall have a minimum of **three thousand (3,000) square feet** of lot area per unit within this district. Accessory buildings shall not cover more than **thirty percent (30%)** of the available rear yard area.

40-4-12 **R-1 HEIGHT AND SETBACK RESTRICTIONS.** The ceiling of the highest occupied level, excluding attic and rafter space, of a building in this district shall not exceed **twenty-five (25) feet** above ground level. Front and rear setbacks shall be at least **twenty (20) feet**. Side setbacks shall be at least **five (5) feet**. Accessory building setbacks shall be at least **three (3) feet**.

40-4-13 **R-1 PARKING.** All single-family residential uses in this district shall provide off-street parking for at least **two (2) vehicles**. All multi-family residential uses in this district shall provide off-street parking for at least **two (2) vehicles** per unit.

DIVISION III – R-2 RESIDENTIAL DISTRICT

40-4-14 **R-2 RESIDENTIAL DISTRICT.** Due to past patterns of development and future expectations, the R-2 Residential District is best suited to single family dwelling including Class B manufactured housing, educational, religious, and recreational facilities. Regulations relating to the R-2 Districts are intended to respect the integrity of the neighborhoods, ensure the safety of its residents, maintain and enhance property values, and provide for the future growth of residential living in the community.

40-4-15 **R-2 DISTRICT PRINCIPAL BUILDINGS.** Lots in the R-2 Residential Districts shall not contain more than **one (1)** principal building which shall be the dwelling unit.

40-4-16 **R-2 PERMITTED USES.**

All R-1 permitted uses.
Home occupations.
Multi-family residences.
New and/or previously untitled Class B manufactured housing.

40-4-17 **R-2 SPECIAL USES.**

Bed and breakfasts.
Cemeteries.
Churches and religious institutions.
Day care facilities.
Group homes.
Mobile home parks.
Mobile home subdivisions.
Nursing homes.
Utility substations with screening.

40-4-18 **R-2 LOT SIZES.** Lots located in the R-2 Residential District shall be no smaller than **fifty (50) feet** by **one hundred (100) feet**. Multi-family residences

shall have a minimum of **three thousand (3,000) square feet** of lot area per unit. Accessory buildings shall not cover more than **thirty percent (30%)** of the available rear yard area.

40-4-19 **R-2 HEIGHT AND SETBACK RESTRICTIONS.** The ceiling of the highest occupied level, excluding attic and rafter space, of a building in this district shall not exceed **twenty-five (25) feet** above ground level. Front and rear setbacks shall be at least **twenty (20) feet**. Side setbacks shall be at least **five (5) feet**. Accessory building setbacks shall be at least **three (3) feet**.

40-4-20 **R-2 PARKING.** All single-family residential uses in this district shall provide off-street parking for at least **two (2) vehicles**. All multi-family residential uses in this district shall provide off-street parking for at least **two (2) vehicles** per unit.

DIVISION IV – C-1 PRIMARY BUSINESS DISTRICT

40-4-21 **C-1 PRIMARY BUSINESS DISTRICT.** The Primary Business District exists to identify the central area of non-industrial commercial activity in the City, encourage development in this district, and accommodate the expansion of existing business, and meet the needs of customers.

40-4-22 **C-1 PRIMARY BUSINESS DISTRICT BUILDINGS.** Lots in the Primary Business District shall only contain buildings whose primary use is the conduct of permitted and approved conditional uses. Accessory buildings may only be used to support the commercial activities of the primary buildings. Primary business buildings shall only be permanent site-built structures. Temporary structures, including but not limited to office trailers and Class B or C manufactured housing structures, shall not be permissible as permanent business structures. Construction trailers are permissible only for the temporary purpose of facilitating active, ongoing construction and as regulated by **Section 40-2-10**.

40-4-23 **C-1 PRIMARY BUSINESS DISTRICT PERMITTED USES.**

Retail, wholesale, and professional and affiliated services including the following:

- Antique shops.
- Appliances.
- Art and craft galleries.
- Autos and trucks.
- Banks, lending institutions, and financial services.

Barber and beauty shops and cosmetics.
Bookstores and libraries.
Catering.
Clothing.
Construction companies (excluding storage of equipment).
Electronics.
Exterminators.
Florist.
Footwear.
Funeral homes.
Furniture and interior decorations.
Groceries, dairy products, and bakeries.
Government buildings (excluding schools).
Hardware.
Insurance and real estate.
Janitorial supplies and services.
Jewelry.
Locksmiths.
Lumber.
Medical, dental, legal, accounting, bookkeeping, tax preparation, and license & title offices.
Music.
Newspapers.
Office supplies.
Paint, glass, and wallpaper.
Pawnbrokers.
Pets.
Pharmacies.
Photography (including studios).
Rental and leasing.
Rental housing accessory to primary business operation.
Restaurants & taverns.
Sporting goods.
Theaters (excluding drive-ins).
Toys.
Other uses not listed as determined by the Zoning Commission.

40-4-24 C-1 PRIMARY BUSINESS DISTRICT SPECIAL USES.

Clubs and lodges.
Multi-family residences.
Warehousing not accessory to permitted business operations.

40-4-25 C-1 PRIMARY BUSINESS DISTRICT PARKING. Storefront businesses in the Primary Business District may utilize public parking on-street and in public parking lots. Loading and unloading, in as much as possible, shall be either off-street or in alleyways.

40-4-26 C-1 PRIMARY BUSINESS DISTRICT CONVERSION OF USES. While it is the intent of this district to exist as the central district for commercial activity, there exists within this district residential structures being used both for residential as well as commercial uses. It shall be permissible to convert a residential structure in this district to a commercial use, but reconversion to a residential use shall be by special permit only if the structure has retained its residential appearance, character, and infrastructure as determined by the Zoning Administrator.

40-4-27 C-1 PRIMARY BUSINESS DISTRICT BUILDING HEIGHT. Buildings in the Primary Business District shall not be higher than that level which can be reached by the current equipment of the DuQuoin Fire Department.

DIVISION V – C-2 HIGHWAY BUSINESS DISTRICT

40-4-28 C-2 HIGHWAY BUSINESS DISTRICT. The Highway Business District (C-2) exists to accommodate the unique nature of business growth in the designated areas. Creation of this district recognizes and encourages the evolution of commercial uses on property fronting and/or facing Routes 51 and 152 through the City.

40-4-29 C-2 HIGHWAY BUSINESS DISTRICT BUILDINGS. Lots in the Highway Business District shall only contain buildings whose primary use is the conduct of permitted and approved conditional uses. Accessory buildings may only be used to support the commercial activities of the primary buildings. Primary business buildings shall only be permanent site-built structures. Temporary structures, including but not limited to office trailers and Class B or C manufactured housing structures, shall not be permissible as permanent business structures. Construction trailers are permissible only for the temporary purpose of facilitating active, ongoing construction and as regulated by **Section 40-2-10.**

40-4-30 C-2 HIGHWAY BUSINESS DISTRICT PERMITTED USES.

Sales and services including the following:
Amusement centers, indoor and outdoor.
Antique shops.

Appliance.
Art galleries.
Auto parking lots or structures.
Banks and loaning agencies.
Barber and beauty shops.
Blueprinting and photo-copying.
Bowling alleys.
Camera shops.
Catering.
Chamber of Commerce.
Clothes sales and cleaning.
Clubs or lodges.
Construction companies (excluding outside storage and equipment).
Credit bureaus, collection agencies, and currency exchanges.
Dairy product sales.
Employment agencies.
Exterminators.
Farm and garden supplies.
Fire stations.
Florists.
Funeral homes.
Government offices.
Grocery and convenience stores.
Hardware stores.
Hotels, motels, and inns.
Insurance agencies.
Interior decorators.
Janitorial services.
Jewelry sales and repair.
Labor unions and halls.
Libraries.
Locksmiths.
Museums.
Music stores.
Newspaper offices.
Office supplies.
Paint, wallpaper, and glass stores.
Pawnbrokers.
Pet shops.
Pharmacies.
Photography studios.
Police stations.
Printers.
Radio and television stations.
Rental equipment.

Restaurants (including drive-through).
Shoe stores.
Sporting goods stores.
Theaters (excluding drive-ins).
Toy stores.
Travel agencies.
Title abstract offices.
Upholstery shops.
Utility company offices.
Veterinary clinics.
Other uses not listed as determined by the Zoning Commission.

40-4-31 C-2 HIGHWAY BUSINESS DISTRICT SPECIAL USES.

Drive-in theaters.
Manufacturing.
Mobile home parks.
Moving and storage operations.
Multiple family residences.
Newspaper printing plants.
Site-built, Class A manufactured housing and mobile home subdivisions.
Taverns.
Truck terminals.
Warehouses.
Any conversion of uses as described in **Section 40-4-33.**

40-4-32 C-2 HIGHWAY BUSINESS DISTRICT PARKING. All parking within the Highway Business District shall be completely off-street and not obstructing pedestrian rights-of-way. Non-residential uses shall provide sufficient off-street parking to accommodate the needs of employees and customers. Accommodations for loading and unloading shall be made to conduct such operations off-street.

40-4-33 C-2 HIGHWAY BUSINESS DISTRICT CONVERSION OF USES.

(A) Conversion of residential properties to commercial uses shall be permissible as a special use. A commercial use converted back to residential use shall be a special use provided the existing structure retains a residential appearance, character, and infrastructure as determined by the Zoning Administrator.

(B) In recognizing the potential for conflicting uses between property converted to commercial use and adjacent residential property, the party converting such property to commercial use shall be responsible for implementing steps to the satisfaction of the Zoning Administrator that will reasonably protect neighboring residential uses from excessive noise, light, odors, and other factors.

40-4-34 **C-2 HIGHWAY BUSINESS DISTRICT LOT SIZES.** Commercial lots shall be of sufficient size to permit customer/employee access to public rights-of-way and loading/unloading operations to flow entirely within the boundaries of the property involved.

40-4-35 **C-2 HIGHWAY BUSINESS DISTRICT SETBACKS AND BUILDING HEIGHTS.** Residential uses in this district shall have **twenty (20) foot** front and rear setbacks, with **five (5) foot** side setbacks. The ceiling of the highest occupied level, excluding attic and rafter space, of a residential building in this district shall not exceed **twenty-five (25) feet** above ground level. Commercial uses shall have front setbacks equal to **ten percent (10%)** of the greater distance of the property's width or depth. The air space above the front setback area shall not be breached by signage or overhanging structures. Commercial structures shall not exceed **thirty-five (35) feet** in height.

40-4-36 **C-2 HIGHWAY BUSINESS DISTRICT MULTIPLE FAMILY RESIDENCES.** Multiple family residences to be located by special use permit in the C-2 District must contain at least **twelve (12)** residential units at the time of original construction. Demonstration units shall not be considered residential units. Multiple family residences shall meet parking space requirements as defined in **Section 40-8-2.**

DIVISION VI – NON-URBAN DISTRICT

40-4-37 **NON-URBAN DISTRICT.** The Non-Urban District exists to provide for the potential growth of the City into sparsely populated, primarily agricultural areas.

40-4-38 **NON-URBAN DISTRICT PRIMARY BUILDINGS.** Residential lots in the Non-Urban District shall not contain more than **one (1)** principal building which shall be the dwelling unit. Non-residential properties in this district shall be free from this restriction.

40-4-39 **NON-URBAN DISTRICT PERMITTED USES.**

Agriculture.
Cemeteries.
Class A and B manufactured housing.
Governmental uses.
Nurseries and greenhouses.
Parks and playgrounds.

Public and private schools.
Radio and television stations and towers.
Site-built single family residences.
Accessory uses to the primary permitted use.

40-4-40 NON-URBAN DISTRICT SPECIAL USES.

Agricultural implement, seed, and fertilizer sales.
Amusement facilities.
Churches.
Clubs and lodges.
Commercial kennels.
Golf courses.
Group homes.
Home occupations.
Hospitals, nursing homes, and sanitariums.
Industrial uses.
Landfill and waste disposal and transfer stations.
Metal-working shops and foundries.
Mineral extractive operations.
Mobile home parks.
Planned unit developments, including subdivisions.
Veterinary practices.
Other uses not listed herein as determined by the Zoning Commission.

40-4-41 NON-URBAN DISTRICT LOT SIZES. Residential lot sizes in the Non-Urban District shall be at least **one hundred (100) feet** in width by **one hundred (100) feet** in depth.

40-4-42 NON-URBAN DISTRICT HEIGHT RESTRICTIONS. The ceiling of the highest occupied level, excluding attic and rafter space, of residential structures in this district shall not exceed **twenty-five (25) feet** above ground level. Commercial structures in the Non-Urban District shall be no higher than **thirty-five (35) feet**. Front and rear setbacks shall be at least **twenty (20) feet**. Side setbacks shall be at least **five (5) feet**. Accessory buildings shall be set back at least **three (3) feet**.

40-4-43 NON-URBAN ANIMAL KEEPING. Animal-keeping pre-existing rezoning of adjacent land shall be permitted to continue unimpeded.

DIVISION VII – GENERAL INDUSTRIAL DISTRICT

40-4-44 **GENERAL INDUSTRIAL DISTRICT.** The General Industrial Districts are intended to provide for the growth of manufacturing and wholesaling in the community, ensure compatibility with surrounding uses, offer direction for the extension of infrastructure into these districts, and safeguard the environmental standards of the area.

40-4-45 **GENERAL INDUSTRIAL DISTRICT PRIMARY BUILDINGS.** Buildings in this district shall be used only for the purpose of providing for the commercial and industrial operations inherent to this district.

40-4-46 **GENERAL INDUSTRIAL DISTRICT PERMITTED USES.**
Assembly, manufacturing, or processing of any commodity from semi-finished materials provided explosives, flammable gases or liquids, or live animals are not involved.
Governmental uses excluding schools.
Research and development facilities not involving explosives, or flammable liquids or gases.
Service stations.
Transportation facilities.
Warehousing or wholesaling of goods except explosives, or flammable liquids or gases.

40-4-47 **GENERAL INDUSTRIAL DISTRICT SPECIAL USES.**
Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable liquids or gases, or live animals.
Research and development facilities involving explosives, or flammable liquids or gases.

40-4-48 **GENERAL INDUSTRIAL DISTRICT NUISANCE RESTRICTIONS.** No production, processing, cleaning, servicing, testing, repairing, sale, or storage of goods or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive glare, excessive smoke emissions, emissions of toxic gases or liquids, and noxious odors. All activities principal to the General Industrial Districts shall be conducted entirely within enclosed buildings.

40-4-49 **GENERAL INDUSTRIAL DISTRICT HEIGHT, SETBACK, AND LOT SIZE RESTRICTIONS.** Buildings located in the General Industrial Districts shall be no higher than **thirty-five (35) feet**. Buildings in the General Industrial District shall be setback at least **twenty-five (25) feet** from the front, rear, and side lot lines. Lots in the General Industrial Districts shall be at least **one hundred twenty-five (125) feet** in width and **one hundred fifty (150) feet** in depth.

ARTICLE V

SPECIFIC USE REGULATIONS

40-5-1 JUNK YARDS AND INOPERABLE AND/OR ABANDONED AUTOMOBILES.

(A) No part of any licensed junk yards, which includes any lot on which one or more inoperable vehicles are stored, shall be located closer than **five hundred (500) feet** to the boundary of any residential district. Unlicensed junk yards shall be prohibited within the corporate city limits of this municipality.

(B) Inoperable vehicles may only be stored within a completely enclosed structure and in a manner that does not pose a hazard to the safety, health, and environment of the surrounding residents and/or properties.

40-5-2 KENNELS. Kennels shall be prohibited within the corporate limits of this municipality.

40-5-3 RECREATIONAL VEHICLES. No recreational vehicles, including self-contained units, travel trailers, or boats of any kind, shall be used for residential, commercial, or storage activities.

40-5-4 SANITARY LANDFILLS. Any person who intends to establish or conduct a sanitary landfill within the zoning jurisdiction of this municipality shall obtain a permit from the state Environmental Protection Agency indicating that the sanitary landfill fully complies with the "Solid Waste Rules and Regulations" promulgated by the IEPA pursuant to the authority granted by Illinois statutes.

40-5-5 POLE BARN STRUCTURES. Pole barn structures shall only be used as accessory, agricultural, or commercial buildings. Pole barn structures shall not be permitted for residential uses.

40-5-6 WATER AND SEWAGE. Any residential, commercial, industrial, or accessory structure within the zoning jurisdiction of the community shall be required to connect to the City water system. Furthermore, such structures shall comply with **Chapter 39** of the Revised Code of Ordinances to ensure sanitary sewage disposal.

ARTICLE VI

HOME OCCUPATIONS

40-6-1 **INTENT AND PURPOSE.** It is the intent of this Article to provide peace, quiet, and domestic tranquility, and maintain the character of all residential neighborhoods within the City. It is further the intent of this Article to guarantee all residents freedom from excessive noise, traffic, nuisances, fire hazards, and other possible effects of commercial uses being conducted in residential areas. Therefore, the purpose of this Article is to define those conditions under which commercial uses commencing after adoption of this Chapter shall operate. It is also the purpose of this Article to define the standards to which nonconforming commercial uses may wish to comply with as such users deem possible.

40-6-2 **REQUIRED CONDITIONS.** No home occupation shall be established or conducted (unless stated otherwise elsewhere in this Chapter) except in conformity with the following conditions:

(A) **Unrelated Employees.** A home occupation may employ no more than **one (1) person** not directly related 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 a dwelling, or **three hundred (300) square feet**, whichever is less.

(C) **Neighborhood Interference.** The home occupation shall not interfere with the reasonable use and enjoyment of neighboring residential properties and shall be located or conducted so that the average neighbor, under normal circumstances, would not be aware of its existence.

(D) **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.

(E) **Outdoor Storage.** No storage or display of materials, goods, supplies, or equipment related to the operation of a home occupation shall be visible from the outside of any structure located on the premises.

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

(G) **Traffic and Parking.** No traffic shall be generated by such home occupation in volumes that would infringe upon the safety and welfare of the residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be met off the street and/or other than in a required front yard.

(H) **Delivery.** There shall be no commodity sold or services rendered that require delivery or shipment of merchandise, goods, or equipment by motor vehicles exceeding **twelve thousand (12,000) pounds** gross vehicle weight.

(I) **Hours of Operation.** In no case shall a home occupation be open to the public at times earlier than **6:00 a.m.** nor later than **6:00 p.m.**

(J) **Signage.** One flush mount, non-illuminated identification sign not to exceed **four (4) square feet** in size may be installed to the façade of a building for the purpose of identifying a home occupation.

(K) **Accessory Structures.** Garages or carports, whether attached or detached, shall not be used for home occupations other than for the storage of automobiles.

(L) **Required Notice.** Any person wishing to begin operation of a home occupation shall be required to register such intent in advance of the initiation of business with the City Clerk and agree in writing to the terms and conditions of paragraphs (A) through (K) of this Section. Such agreement shall constitute the acceptance of these terms and permission of the City to initiate business operations. Failure to comply with these terms shall result in violation of this Article and may result in withdrawal of approval of the operation of the home occupation.

(M) **Businesses Operating in Residential Areas at the Time of Adoption.** Nonconforming businesses operating in residential areas at the time of adoption of this Code may, within **one hundred eighty (180) days** after adoption, voluntarily register with the City Clerk in order to ensure nonconforming status. Such registration will be at no charge, and will only be used to identify businesses for the purpose of applicability to nonconformance exemptions described in **Article III.**

ARTICLE VII

MANUFACTURED HOUSING

40-7-1 **CLASS A MODULAR HOUSING.** Class A modular homes, for zoning purposes, shall bear equal status with site-built homes.

40-7-2 **CLASS B MANUFACTURED HOUSING.** Class B manufactured housing will adhere to the following additional requirements for placement on private lots within the R-2 District:

(A) Manufactured housing units shall be used only for residential purposes.

(B) Each unit will be placed on a lot no smaller than **fifty (50) feet** by **one hundred (100) feet**. Such a unit may be no closer than **twelve (12) feet** from either side lot line or **fifteen (15) feet** from either end lot line.

(C) Each unit must have off-street parking for at least **two (2) vehicles**.

(D) Each unit must be securely immobilized, placed on stand, piers, or runners of sufficient strength and numbers to safely secure the unit, and anchored in accordance with the Illinois Mobile Home Tie-Down Act of 1980.

(E) Each unit must be skirted with fire-resistant skirts or acceptable manufactured skirting kits. The skirting shall be equipped with an inspection door of at least **twenty-four (24) inches** in width allowing access to the underside of the unit.

(F) No unit may be placed on a lot already occupied by another primary residence, regardless of whether that residence is occupied or not.

40-7-3 **REPLACEMENT OF NONCONFORMING UNITS.**

(A) Nonconforming manufactured housing units may, during a **three (3) year** period from the date of enactment of this Chapter, be replaced by new and/or previously untitled Class B units regardless of the status of the residential district in which they are located. Manufactured housing units replaced during this period may, for a period of **five (5) years** from date of installation on the site, again be replaced in the event of catastrophic, unforeseeable destruction resulting from calamities such as, but not limited to wind, flood, accidental fire, or earthquake. Reinstallation shall be performed in compliance with the requirements of **Section 40-7-2(D) and (E)**, and as much as possible with **Section 40-7-2(A), (B), (C) and (F)**.

(B) With the expiration of the **five (5) year** period from date of installation, units replaced in R-1 Residential Districts shall be considered nonconforming structures.

ARTICLE VIII

WIRELESS COMMUNICATIONS FACILITIES DEVELOPMENT, SITING, AND INSTALLATION STANDARDS

40-8-1 **DEFINITIONS.** Words and phrases used in this Section shall have the common meaning unless defined below, or if a definition in this Section conflicts with any other definition included in this Code, the definition of this Section shall apply.

Antenna Array: One or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel), and parabolic antenna (disc). The Antenna Array does not include the Support Structure defined below.

Attached Wireless Community Facility (Attached WCF): An Antenna Array that is attached to an existing building or structure, which structures shall include but not be limited to utility poles, signs, or water towers, with any accompanying pole or device which attaches the Antenna Array to the structure, and associated connection cables and an Equipment Facility.

Co-Location/Site Sharing: Use of a common WCF, or common site by more than **one (1)** wireless communication license holder for more than one type of communications technology and/or placement of an Antenna Array on a structure.

Equipment Facility: Any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a build out of an existing structure, pedestals, and other similar equipment.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

FTA: Federal Telecommunications Act of 1996.

Height: When referring to a WCF, height shall mean the vertical distance measured from the base of the tower to the highest point on the WCF, excluding the Antenna Array.

Setback: The required distance from the property line of the parcel on which the WCF is located to the base of the Support Structure and Equipment Facility where applicable, or in the case of the guy-wire supports, the guy anchors.

Support Structure: A structure designed and constructed specifically to support an Antenna Array and may include a monopole, self-supporting (lattice) tower, guy-wire-support tower and other similar structures.

Temporary Wireless Communications Facility (Temporary WCF): A WCF to be placed in use for **sixty (60)** or fewer days.

Tower and/or Antenna Use Permit (TAP): A permit issued by the City specifically for the location, construction, use and compliance with the development standards of a proposed WCF.

Wireless Communications: Any wireless service as defined in the Telecommunications Act of 1996, Title 47, USC, and as it may be amended, including, but not limited to, facilities for the transmission and reception of radio, television, or microwave signals used for communication, cellular phone, personal communication

services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and other wireless services licensed by the FCC and unlicensed wireless services.

Wireless Communication Facilities: Any staffed or unstaffed facility for the transmission and/or reception of wireless telecommunications services, usually consisting of an Antenna Array, Connection Cables, Equipment Facility, and a Support Structure to achieve the necessary elevation.

40-8-2 APPLICABILITY.

(A) **New Wireless Communications Facilities.** No person, firm, or corporation shall install or construct any new WCF, unless and until a Tower and/or Antenna Use Permit (TAP) is issued by the Zoning Administrator of the City of DuQuoin, Illinois pursuant to the requirements of this Section.

(B) **Nonconforming or Pre-Existing Wireless Communications Facilities.** WCF's which exist within the jurisdiction of this Article at the time of passage shall, not be required to meet the requirements of this Section, unless expansions or additions are requested. Alterations to a Support Structure, or the addition of Antenna Arrays to a structure, must meet the requirements of this Section and may be completed after appropriate permits are issued.

(C) **Exemptions.** The provisions of this Section shall not apply to a ground or building mounted receive-only radio or television antenna used for residential purposes; a ground or building mounted citizens band radio antenna; a ground, building or tower mounted antenna operated by a federally licensed amateur (ham) radio operator; and satellite dish antennas less than **thirty-six (36) inches** in diameter for residential purposes, including direct to home satellite services, when used as a use accessory to the residential use of the property. Such installations shall comply with other applicable provisions of the Zoning Code.

40-8-3 SHARED FACILITIES AND CO-LOCATION. All new WCF's shall be engineered, designed, and constructed to be capable of sharing the facility with other applicants, to co-locate with other existing WCF's, and to accommodate the future co-location of other WCF's. A Tower and/or Antenna Use Permit shall not be issued until the applicant proposing a new WCF shall demonstrate that it has made, in reasonable good faith, an attempt to locate its WCF onto an existing structure. Competitive conflicts and financial burden alone are not deemed to be adequate reasons against co-location.

40-8-4 INVENTORY OF EXISTING SITES. Upon adoption of this Section, all wireless communication service providers operating within the corporate limits of the City shall register with the Zoning Administrator of this jurisdiction. Information provided shall include an inventory of existing WCF towers and/or antennas, their respective locations, height, and design.

40-8-5 **PREFERENCE LOCATIONS FOR WIRELESS COMMUNICATION FACILITIES.** The order of preference for locating new WCF's within the City shall be as follows:

(A) Locating Antenna Attachments to existing Support Structures or to existing buildings or other structures which shall include but not be limited to utility poles, signs, and water towers. All Antenna Attachments shall be permitted subject to **Section 40-8-9, Development Standards**, as described in this Section.

(B) Locating new Support Structures on land that meets all of the following requirements:

- (1) The site is located on property zoned General Industrial (G-I), Highway Business (C-2), or Non-Urban (N-U).
- (2) The site has a setback distance as described in **Section 40-8-9 Development Standards**.
- (3) The site has a minimum spacing requirement distance of **one thousand (1,000) feet** from any other Support Structure greater than **one hundred (100) feet** in height.
- (4) The Support Structure meets the height limitations as described in **Section 40-8-9, Development Standards**.

The Zoning Administrator of the City, who, upon verification of compliance, shall issue a TAP, shall deem Support Structures on these lands permissible.

(C) Locating new Support Structures on any other lands not meeting the requirements in (B) above, and within the City's zoning jurisdiction. Support Structures proposed for constructions on these lands shall be permitted only through the Special Use Permit process as articulated in **Section 40-2-7** of the Zoning Code. When applying for a Special Use Permit, the applicant shall provide the City with adequate information to establish that no other lands included in (A) or (B) above can be made suitable for the applicant's proposed WCF's in accordance with this Section. The applicant shall also provide adequate information demonstrating that a failure to locate on the proposed site shall cause substantial financial burden and loss of service to the applicant's users.

40-8-6 **REVIEW PROCEDURES.**

(A) **Permitted Wireless Communications Facilities** that meet the Development Standards as described in **Section 40-8-9** shall be permitted by administrative review of the Zoning Administrator.

(B) **Wireless Communications Facilities Permitted by Special Use Permitting Process.** All other proposed WCF's not included in (A) above shall be subject to the Special Use Permit process as described in **Section 40-2-7** of the Zoning Code.

(C) **Temporary Wireless Communications Facilities.** Temporary WCF's may be permitted by administrative review of the Zoning Administrator for a term not to exceed **ninety (90) days**. Once granted, a temporary WCF permit may be

extended for an additional **sixty (60) days** upon evidence of need by the applicant. Upon termination of approval, the temporary WCF shall be removed immediately at the owner's expense.

40-8-7 REQUIRED SUBMITTALS FOR TOWER AND/OR ANTENNA USE PERMIT (TAP). All requests for a WCF, regardless of type, shall submit an application for a Tower and/or Antenna Use Permit (TAP) on forms prescribed by the City and attach the following:

(A) Scaled site plan.
(B) Scaled elevation plan.
(C) Color rendering and/or photo simulation(s) of the proposed tower with its antennae, all facilities and required landscaping viewed from the nearest street or streets.

(D) Copy of the FCC license of each proposed user of the tower, or in the case of new towers, approval from the FCC to construct the tower to demonstrate that all federal and state requirements have been met, including but not limited to applicable requirements imposed by the National Environmental Policy Act (NEPA), the Federal Aviation Administration (FAA), and the State Historic Preservation Office (SHPO) of the State of Illinois.

(E) Other support drawings, calculations, surveys, and other documentation, signed and sealed by appropriate Illinois licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Section.

(F) Copy of a Co-Location Agreement wherein the applicant acknowledges that a condition to granting any TAP is the applicant's ongoing commitment to make available and reasonably market co-location sites on each new tower.

(G) Evidence of compliance with **Section 40-8-3, Shared Facilities and Co-Location Policy; Section 40-8-4, Inventory of Existing Sites; Section 40-8-8(B)(4), Availability of Suitable Existing Towers, Other Structures, or Alternative Technology**, of this Article.

(H) A non-refundable one-time **Two Hundred Fifty Dollar (\$250.00)** processing fee and a **Three Thousand Dollar (\$3,000.00)** performance deposit refundable upon compliant project completion.

40-8-8 APPROVAL PROCESS.

(A) **Administrative Review Procedure.** The following administrative review process shall apply to all WCF applications eligible for administrative review.

(1) Review Authority, Review of proposed WCF's under this Section shall be conducted by the Zoning Administrator of the City, or his/her designee, upon filing a TAP application.

- (2) **Review Criteria.** Each TAP application shall be reviewed for compliance with the Development Standards specified in **Section 40-8-9** of this Article.
- (3) **Timing Decision.** The Zoning Administrator shall render a decision on the TAP application by written response to the applicant within **twenty (20) business days** after receipt of the complete application, except that the applicant may agree upon an extension.
- (4) **Application Approval.** If the TAP application is in compliance with the Development Standards in **Section 40-8-9**, and otherwise meets the requirements of this Section, the Zoning Administrator shall issue a TAP.
- (5) **Application Denial/Appeal Process.** If the Zoning Administrator denies administrative approval, the reason for denial must be made to the applicant in writing. The applicant may appeal the denial to the Zoning Commission. The Zoning Commission shall hear the appeal within **ten (10) days** of receiving a written request from the applicant. The Zoning Commission shall submit a written determination on the appeal to the applicant and the Zoning Administrator within **five (5) working days** of the conclusion of the appeal hearing. If the Zoning Commission denies administrative approval, the applicant may appeal the denial to the City Council acting as the Zoning Board of Appeals for final determination in approving or denying the TAP application.

(B) **Special Use Permit Review Procedure.** The following shall apply to all TAP applications requiring submission to the Zoning Commission for review in accordance with **Section 40-2-7, Special Use Permits**. The Zoning Commission shall consider the following in reaching a decision:

- (1) **Review Criteria.** Each TAP application shall be reviewed for compliance with the Development Standards set forth in **Section 40-8-9** of this Article.
- (2) **Tower Siting Conditions.** The Zoning Commission may require that conditions and restrictions on the application, or on the premises benefited by the TAP, as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the WCF with the surrounding property, in accordance with the purposes and intent of this Article.
- (3) **Factors in Granting Special Use Permits for Towers.** In addition to any standards for consideration of Special Use Permit applications pursuant to **Section 40-2-7** of the Zoning Code, the Zoning Commission shall consider the following factors while reviewing TAP applications on new towers:
 - (a) Height of the proposed tower;

- (b) Proximity of the tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage; and
- (f) Proposed ingress and egress.

(4) **Availability of Suitable Existing Towers, Other Structures or Alternative Technology.**

No new support structure shall be permitted unless the applicant submits a written brief demonstrating that no existing tower, structure, or alternative technology that does not require the use of towers or structures, can accommodate the applicant's proposed WCF. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed WCF shall be prepared by a qualified and licensed Illinois professional engineer and may consist of one or more of the following:

- (a) Existing towers or structures are not located within a reasonable geographic area, which meet the applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- (c) Existing towers or structures can not be altered to provide sufficient structural strength.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure, or to adapt an existing tower or structure for sharing, are unreasonable based upon market information. Costs exceeding new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable.
- (h) Applicants are required to demonstrate by providing proof of certified mailings or other reasonable means: (1) that they have contacted the owners of reasonably suitable structures within a **one thousand (1,000)**

foot radius of the proposed site and, which from a location standpoint, could provide part of a network for transmission of signals; (2) have asked for permission to install the antenna on those structures and (2) were denied for reasons other than economic feasibility.

40-8-9 DEVELOPMENT STANDARDS. Development Standards for Wireless Communications Facilities shall include the following standards:

(A) **Height Standards.** Attached WCF's are exempt from any height standard. The following height standards shall apply to Support Structure installations and shall supersede the height limitations of the zoning districts in this Chapter:

- (1) WCF's in the General Industrial, Non-Urban, and Highway Business districts shall be restricted in height according to their relationships from adjacent districts as follows:
 - (a) WCF's in the G-I, N-U, and C-2 districts may be no higher than **one hundred (100) feet** when sited within **two hundred fifty (250) feet** of a residential (R-1 or R-2) district.
 - (b) WCF's in the G-I, N-U, and C-2 districts may be no higher than **two hundred (200) feet** when sited within **five hundred (500) feet** of a residential (R-1 or R-2) district.
 - (c) WCF's in the G-I, N-U, and C-2 districts may be no higher than **three hundred (300) feet** beyond **five hundred (500) feet** of a residential (R-1 or R-2) district.
 - (d) All WCF's with support structures exceeding **one hundred fifty (150) feet** above ground level shall be engineered so as to accommodate at least **three (3)** antenna arrays.
 - (e) No WCF shall be sited or built so as to interfere with the ingress or egress of helicopter traffic at Marshall Browning Hospital.

(B) **Setback Standards.** The following setback standards shall apply to all WCF installations:

- (1) All Support Structures shall be constructed to comply with the setback provisions of the zoning district in which they are located. In no instance shall any Support Structure be less than **ten (10) feet** from any lot line.
- (2) Attached WCF's are exempt from any setback standard, but shall in no instance overhang or encroach upon the property of another or any public right-of-way. An Antenna Array may extend up to **five (5) feet** horizontally beyond the edge of an

attachment structure so long as the Antenna Array does not encroach upon any adjoining parcel.

- (3) Equipment Facilities and guy anchors, if permitted, must satisfy the setback requirements of the zoning district in which they are located.

(C) **Landscaping.** The following landscaping requirements shall be maintained by the applicant and shall apply to all new WCF installations:

- (1) Support Structures and Attached WCF's with new building construction shall be landscaped around the perimeter of the security fencing by a row of evergreen or evergreen shrubs capable of creating a continuous hedge and obtaining a height of at least **ten (10) feet**. Trees shall be a minimum of **one and one-half (1.5) inch** caliper, or shrubs a minimum of **thirty-six (36) inches** tall, at the time of planting.
- (2) Existing mature tree growth and natural landform on the site shall be preserved to the extent feasible, provided that vegetation that causes interference with the antennas or inhibits access to the Equipment Facility may be trimmed or removed.
- (3) Existing vegetation on a WCF site may be used in lieu of required landscaping where approved by the Zoning Administrator.
- (4) Grading for the new WCF shall be limited only to the area necessary for the new facility.

(D) **Aesthetics, Materials, and Colors.** The following standards shall apply to all WCF installations:

- (1) Support Structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, or such shades as are appropriate and compatible with the surrounding environment, so as to reduce visual obtrusiveness.
- (2) Antenna Array attachments and supporting electrical and mechanical equipment shall be of a color that is identical to, or closely compatible with, the color of the attachment structure so as to make the Antenna Array and related equipment as visually unobtrusive as possible.

(E) **Security Fencing.** An opaque security fence not less than **six (6) feet** in height shall enclose WCF's with Support Structures.

(F) **Lighting.** The following lighting requirements shall apply to all WCF installations. WCF's shall not be artificially illuminated, directly or indirectly, except for:

- (1) Security and safety lighting of equipment buildings, if such lighting is appropriately shielded to keep light within the boundaries of the site; and

- (2) Such illumination of the WCF as may be required by the FAA or other applicable authorities, installed in a manner to minimize impacts on adjacent residences.

(G) **Signage.** WCF's shall not display any signage, logos, decals, symbols, or any messages of a commercial nature, except for a message containing provider identification and emergency telephone numbers and other emergency warning information as may be required by local, state, or federal regulations governing WCF's.

(H) **Radio Frequency Emissions/Sound.** The following radio frequency emissions standards shall apply to all WCF installations:

- (1) **Radio Frequency Impact.** Applicants for WCF's shall be required to provide information with the application on the measurement of the effective radiated power of the facility to document that the facility complies with all applicable FCC standards.

- (2) **Sound Prohibited.** No unusual sound emissions such as alarms, bells, buzzers, or the like are permitted.

(I) **Structural Integrity.** WCF's with Support Structures shall be constructed and maintained in compliance to the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) 222-E Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" or equivalent, as it may be updated and amended. Each Support Structure shall be capable of supporting multiple Antenna Arrays.

(J) **Co-Location Support Structure Design.** To encourage co-location of WCF's, all WCF's shall be designed to accommodate multiple Antenna Arrays in accordance with the Development Standards prescribed in **Section 40-8-9(A), Height Standards** of the Revised Code.

(K) **Co-Location Agreement.** All applicants for WCF's are required to submit a Co-Location Agreement with the Tower and/or Antenna Use Permit (TAP) application agreeing to allow and reasonably market co-location opportunities to other WCF users. The agreement shall include the applicant's policy regarding the co-location of other providers and the methodology to be used by the applicant in determining reasonable rates to be charged to other providers. The Co-Location Agreement shall be considered a condition of issuance of a TAP. A TAP shall not be issued unless the applicant complies with the Shared Facilities and Co-Location Policy outlined in **Section 40-8-3** of the Revised Code.

(L) **Other Applicable Regulations.** All towers must meet or exceed current standards and regulations of the National Environment Policy Act (NEPA), State Historic Preservation (SHPO), Federal Aviation Administration (FAA), Federal Commerce Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas.

40-8-10 NONCONFORMING WIRELESS COMMUNICATION FACILITIES. WCF's in existence prior to the date of adoption of this Chapter which does not comply with requirements of this Chapter shall be considered Nonconforming Wireless Communications Facilities and are subject to the following provisions:

(A) **Expansion.** Nonconforming WCF's may continue in use for the purpose now used, but may not be expanded without complying with this Chapter, except as further provided in this Chapter.

(B) **Additions.** Nonconforming WCF's may add additional antennas subject to review and approval by the Zoning Administrator under this Chapter.

(C) **Repairs or Reconstruction.** Nonconforming WCF's which become damaged due to any reason or cause may be repaired and restored to its former use, location, and physical dimensions subject to the provisions of this Chapter. Provided, however, that if the damage to the WCF exceeds **fifty percent (50%)** of the replacement cost, said WCF may only be reconstructed or repaired in compliance with this Chapter.

(D) All nonconforming WCF not in use as a WCF for a period of **twelve (12) consecutive months** or longer, which is thereafter determined to be abandoned by the Zoning Administrator as defined herein, shall no longer be a nonconforming use.

40-8-11 ABANDONED WIRELESS COMMUNICATIONS FACILITIES. Any WCF that has not operated for a continuous period of **twelve (12) months** shall be considered abandoned, unless the owner of the WCF provides evidence to the satisfaction of the Zoning Administrator that reasonable good faith attempts have been made to market the WCF to a provider pursuant to the requirements of this Chapter.

40-8-12 REMOVAL OF ABANDONED WIRELESS COMMUNICATIONS FACILITIES. The City, at its election, may require the owner of an abandoned WCF to remove the WCF within **ninety (90) days** from the date owner receives notice from WCF to remove the WCF. If there are **two (2)** or more users of a single WCF, this provision shall not become effective until all providers cease to use the WCF. If the owner of an abandoned WCF cannot be located, or is no longer in business, the requirements of this Chapter shall be the responsibility of the landowner on whose property the WCF is located.

40-8-13 REVOCATION OF TOWER AND ANTENNA USE PERMITS. The City may revoke any TAP issued pursuant to this Chapter after a hearing as provided hereinafter. If the Zoning Administrator finds that any permit holder has violated any provision of this Chapter, or the conditions, restrictions or additional Development Standards of an approved Special Use; or has failed to make, in reasonable good faith, efforts to provide or seek co-location, the Zoning Administrator shall notify the permit holder in writing that the TAP is revocable due to the permit holder's noncompliance with the conditions of the permit. The Zoning Administrator shall convene a meeting with the

permit holder no later than **thirty (30) days** from the date of the letter. The Zoning Administrator may require the permit holder to correct the violation within a reasonable amount of time or the Administrator may recommend to the Zoning Commission that the TAP be revoked.

The Zoning Administrator shall notify the permit holder, in writing, of the specific areas of noncompliance and specify the date by which such deficiencies must be corrected. The time for correction of the deficiencies shall not exceed **sixty (60) days**. The permit holder shall provide the Zoning Administrator with evidence that the corrective action has been taken. Should the permit holder fail to correct the deficiencies in the time required, the City Clerk shall request that the City Council convene a public hearing to consider revocation of the TAP. The hearing shall be conducted pursuant to notice by publication in a newspaper of general circulation in the City not less than **fifteen (15) days** prior to the hearing. The permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The City Council may impose reasonable restrictions with respect to time and procedure of the hearing. The proceedings shall be recorded. After the appropriate public hearing, the City Council may revoke the TAP upon receipt of evidence, which proves by a preponderance of the evidence that the permit holder has violated or is in noncompliance with the provisions of this Chapter. Upon such determination, the City Council may revoke the permit upon such terms and conditions as it sees as reasonable.

40-8-14 **PENALTY.** Any violation of any provisions of this Article shall be subject to a fine, not to exceed **One Thousand Dollars (\$1,000.00)** for any one specified violation. Each day a violation continues shall be considered a separate offense. Any fine or penalty resulting from violations of this Chapter is not intended to conflict with the provisions for penalties elsewhere in the Code. In addition, nothing stated herein shall prohibit the City from exercising any other legal remedy provided under law.

(Ord. No. 2006-07-02; 07-24-06)

ARTICLE IX

OFF-STREET PARKING

40-9-1 GENERALLY.

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

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

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

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

40-9-2 PARKING SPACE REQUIREMENTS.

(A) Off-street parking and loading spaces shall be provided as indicated in tabular form below. For any use that is not listed in the table, the same amount of parking and loading spaces shall be provided as is required for hotels, motels, boarding houses, the most similar listed use. The Zoning Commission shall make the determination of similarity.

(B) Employee parking shall mean **one (1) parking space** per each **one and one-half (1.5) employees** unless otherwise stated. If computation of the number of parking spaces required by this Article results in a fractional space, any fraction greater than one-half shall mean a full parking space.

<u>Use</u>	<u>Parking Spaces Required</u>
(A) <u>Dwellings, Lodgings:</u>	
Hotels, Motels, Boarding Houses, and Bed & Breakfasts not providing restaurant-like services	1 space per lodging unit plus employee parking
Class B manufactured housing not in a mobile home park	2 space per unit
Multi-family dwellings	3 spaces per dwelling unit

<u>Use</u>	<u>Parking Spaces Required</u>
Single-family dwelling	3 spaces per unit
(B) <u>Educational, Institutional, Recreational:</u>	
Churches, auditoriums	1 space per 3 seats in the largest seating area
Hospitals	1 space per 2 beds plus employee parking
Libraries, museums	1 space per 500 sq. ft. of floor space
Nursing Homes	1 space per 5 beds plus employee parking
Schools	
Elementary/Junior High	1 space for every 20 students the school is designed to accommodate plus employee parking
Senior High/Vocational Schools	1 space per 3 students over 16 years of age plus employee parking
(C) <u>Commercial, Office, Service:</u>	
All commercial and service uses unless specifically indicated otherwise below	1 space per 300 square feet of floor area
Banks, Savings & Loans	1 space per 300 square feet of floor walk-in area plus employee parking.
Banks, Savings & Loans, Drive-In	5 spaces per teller window
Beauty & Barber shops	2 spaces per chair, plus employee parking
Bowling Alleys	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants or taverns

<u>Use</u>	<u>Parking Spaces Required</u>
Car Wash	5 spaces per lane
Furniture and appliance stores	1 space per 600 sq. ft. of floor area
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling
Offices generally	1 space per 300 sq. ft. of floor area except medical/dental area
Medical/dental offices	1 space per 200 square feet of floor area or 3 spaces per professional, whichever is greater
Mortuaries	1 space per 5 seats plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room
Restaurants, refreshment stands Sit-down	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater
Drive-in	1 space per 25 square feet of floor area
Taverns, clubs, lodges, service organizations	1 space per 4 seats, or 1 space per 50 square feet of floor and space, whichever is greater
Vehicle sales & service	1 space per 600 square feet of enclosed (autos, boats, trailers, floor area plus 2 spaces per 2,500 etc.) square feet, plus 4 spaces per service bay plus employee parking
(D) <u>Industrial:</u>	1.5 employee parking spaces per employee plus 1 space per company vehicle plus 1 visitor space per 25 employees on the major shift

40-9-3 PARKING AREA DESIGN STANDARDS.

(A) Each space shall be at least **ten (10) feet** wide by **twenty (20) feet** long, with at least **seven (7) feet** of overhead clearance. Markings shall be laid as often as necessary to clearly delineate each parking space.

(B) Aisles within parking lots shall be at least **twenty-two (22) feet** wide for two-way traffic with **ninety (90) degree** parking. Aisles within parking lots with at least **sixty (60) degree** parking with one-way passage shall be at least **eighteen (18) feet** wide.

ARTICLE X

SIGNS

40-10-1 SIGN DEFINITIONS.

(A) Sign. Any device designated to inform or attract the attention of persons not on the premises on which the sign is located, providing however, that the following shall not be included in the application of the regulations herein:

- (1) Signs not exceeding **one (1) square foot** in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification or premises not having commercial promotion.
- (2) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (3) Legal notices, identification, informational, or directional signs erected by governmental bodies.
- (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
- (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

(B) Sign, Flashing. A sign shall be considered to be a flashing sign if any element changes more frequently than **thirty (30) minute** intervals. This shall be considered to mean that no change in the entire surface area of the sign, including structural members shall be made more frequently than **thirty (30) minute** intervals except time and temperature signs as illustrated herein.

(C) Sign, Moving. Any sign which revolves, moves, is animated, or gives the visual impression of revolving, moving or animation.

(D) Sign, Number of. For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

(E) Sign, Off-Site. A sign other than an exterior or interior on-site sign. Off-Site Signs are more conventionally known as billboards regardless of size.

(F) Sign, On-Site, Exterior. An exterior sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises. Exterior On-Site Signs do not include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards which are off-site signs.

(G) Sign, On-Site Interior. A sign on the interior of a structure relating its subject matter to the premises on which it is located, or to products,

accommodations, services or activities on the premises. As long as any such sign is not normally viewable from the exterior of the premises, it shall not be regulated by this Article.

(H) **Sign, Structure.** A structure constructed for the purpose of displaying a sign. Any Sign Structure shall be designed and constructed in a manner that is safe and shall be free of any exposed guy wires, cables, angle iron, and extra bracing.

(I) **Sign, Surface Area of.** The surface area of a sign shall be computed as including the entire area within a regular geometric form of combination of regular geometric forms comprising all of the display area and from (or border) or the sign surface area and including all of the elements of the matter displayed.

Structural members not bearing advertising matter shall not be included in computation of surface area.

40-10-2 SIGN TYPES ILLUSTRATED.

(A) **Flush Wall.** A sign, mounted, attached to or painted on the exterior or a structure other than a Sign Structure where the plane of the sign surface area is parallel to the plane of the structure to which it is attached. A flush mounted wall sign may be on-site or an off-site sign. A flush mounted wall sign may not project more than **one (1) foot** from the plane of the structure to which it is attached.

(B) **Perpendicular Wall.** A sign mounted or attached to the exterior of a structure where the plane(s) of the sign surface area(s) (is) (are) not parallel to the plane of the structure to which it is attached. A perpendicular wall mounted sign is generally an on-site sign. Maximum distance between sign faces shall not exceed **three (3) feet**. A Perpendicular wall mounted sign shall not be construed to be a marquee sign.

(C) **Window.** A sign viewable from the exterior of a structure which is: painted on a window; depicted upon a card, paper or other material; and placed on, taped on, or displayed from a window for the specific purpose of identifying the proprietor or name of business to passersby. Window signs are not permissible above the main floor (**ten (10) feet** higher than grade) of any structure. A window sign shall not be construed to be a promotional window sign as defined elsewhere.

(D) **Window Promotional.** A sign viewable from the exterior of a structure which is: painted on a window; depicted upon a card, paper or other material; and placed on, taped on, or displayed from a window for the specific purpose of attracting attention of passersby to a sale, or to promotional items, etc. A promotional window sign is not permissible above the main floor (**ten (10) feet** higher than grade) of any structure. A promotional window sign shall not be construed to be a window sign as defined elsewhere.

(E) **Reflectorized.** A non-illuminated sign wherein at least part of the surface area is composed of a reflectorized material which appears to be illuminated when a light cast upon the sign surface area.

(F) **Marquee.** A canopy structure projecting over public right-of-way, attached to and supported by a larger structure on land not within public right-of-way. Minimum distance between perpendicular ends of marquees shall be not less than **six (6) feet**. A marquee may also be a sign structure.

(G) **Sign, Marquee.** Any sign attached to or constructed in or upon a Marquee. See also: Sign Structure.

(H) **Time and/or Temperature.**

- (1) Temperature signs shall not change except when the temperature changes **one (1) degree**.
- (2) Time signs shall be permitted to change no more frequently than **sixty (60) second** intervals.

- (3) **Temperature and Time Signs in Combination.** If separate space is provided on sign surface area for time and temperature, (1) and (2) above shall apply. If same surface area is provided for both time and temperature, the frequency of change shall be no more than **five (5) second** intervals.

(I) **Freestanding.** A sign which is supported by one or more columns, uprights or braces anchored in or upon the ground. See also sign structure.

(J) **Illuminated.** A sign which has a light source as an integral part of the sign or sign surface area, or a sign which has a light source directed on the surface area from a remote position. The light from any illuminated sign or from any light source, including the interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles. Light shall not shine on or into residential structures. The light source shall not be flashing. A reflectorized sign shall not be construed to be an illuminated sign.

(K) **Changeable Copy.** A sign whereon provision is made for letters or characters to be placed in or upon the surface area manually or electronically to provide a message or picture.

(L) **Roof.** A sign which is supported by one or more columns, uprights or braces anchored in or upon the roof of a structure other than a sign structure. See also sign structure.

40-10-3 SIGN REGULATIONS. The sign regulations set by this Article include regulations for maximum surface area of signs, maximum number of signs, permitted sign types, and maximum height of signs. Standards are established for each zoning district and are set forth in Schedule of District Sign Regulations, **Section 40-10-9** of this Article. Signs may be erected, altered, and maintained only for a permitted use in the district in which the signs are located. Except for permitted off-site signs, all signs shall be located on the same parcel of land as the permitted use which they identify.

40-10-4 PERMITS. Before any sign that is subject to a permit is erected, enlarged, altered, rebuilt, or relocated, a permit shall be obtained from the Zoning Administrator. Routine maintenance or changing of parts designed for changes shall not be considered an alteration provided such change does not alter the surface area, or otherwise make the sign nonconforming. Fees for said permit shall be established by the City Council. No signs may be placed on City property, right of way or boulevard. A boulevard is defined as the area between the sidewalk and the street. Where no sidewalk exists, a boulevard is defined as the area within **twenty (20) feet** of the street.

40-10-5 SIGNS NOT SUBJECT TO A PERMIT. The following signs shall not be subject to a permit; however, no signs may be placed on City property, right of way or boulevard unless permission is given by the Zoning Administrator:

- (A) Temporary real estate signs;
- (B) Window promotional signs;
- (C) Political signs;
- (D) Banners advertising special events.

40-10-6 PROHIBITED SIGNS. The following signs are prohibited within the jurisdiction of this Article:

- (A) Moving signs;
- (B) Flashing signs;
- (C) Propellers, paddle wheels, or other attraction devices designed to be set in motion by the wind.

40-10-7 REGISTRATION OF SIGNS. Within **one (1) year** after the effective date of this Article, all existing signs must be registered with the Zoning Administrator even though that are grandparented. This registration information and visual inspections shall be the basis of the determining whether or not existing signs conform to the provisions of this Article.

40-10-8 REMOVAL OF CERTAIN SIGNS.

(A) Any sign hereafter existing which advertises a business no longer being conducted or a product no longer being sold on the premises upon which the sign is located shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or premises upon which it may be found within **sixty (60) days** after written notification from the Zoning Administrator and, upon failure to comply with such notice within the time specified in such order, the Zoning Administrator is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner, agent or person having the beneficial use of the building, structure or premises to which the sign is attached.

(B) All temporary signs including banners shall be removed within **one (1) week** of the event that is advertised.

40-10-9 SCHEDULE OF DISTRICT SIGN REGULATIONS. See end of Code for these schedules.

40-10-10 FENCES.

(A) No fences, walls, etc. shall be erected within any public right-of-way or on City property.

(B) Fences constructed in the rear and side yards shall not exceed **eight (8) feet** in height from the ground.

(C) No barbed wire or electrically charged fences shall be erected or maintained anywhere in this municipality.

(D) The City is not responsible for determining the location of the property line. The duty shall be incumbent upon the property owner.

40-10-11 SWIMMING POOLS. Both in-ground and above-ground swimming pools are permitted. The setbacks for swimming pools shall be at least **five (5) feet**.

40-10-12 PENALTY. Any person who is convicted of violating this Chapter shall be fined not less than **Fifty Dollars (\$50.00)** nor more than **Five Hundred Dollars (\$500.00)** plus costs. Each day that a violation continues shall be considered a separate offense. Furthermore, nothing in this Chapter shall prevent this municipality from taking other lawful action that may be necessary to secure compliance with this Chapter.