

**CHAPTER 40**

**ZONING CODE**

**ARTICLE I – GENERAL PROVISIONS**

**40-1-1**        **TITLE.** This Code shall be known, cited and referred to as the **Zoning Code for the Village of Rochester, Illinois.**

**40-1-2**        **INTENT AND PURPOSE.**

(A)            This Code is adopted for the purpose of:

- (1)        Promoting and protecting the public health, safety, comfort, convenience, prosperity, morals and general welfare of the people.
- (2)        Securing adequate light, pure air and safety from fire and other dangers.
- (3)        Conserving the taxable value of land and buildings throughout the Village.

(B)            and objectives by:

- To these ends this Code is designed to set up and accomplish certain standards
- (1)        Organizing the Village into districts regulating and restricting therein the location, construction, reconstruction, alteration and use of any buildings, structures or land, whether for residence, office, business, manufacturing or other specific uses.
  - (2)        Regulating and limiting the height and bulk of buildings and other structures.
  - (3)        Establishing, regulating and limiting the building or setback lines along streets, alleys or property lines.
  - (4)        Establish the planned residential development for an area of land controlled by a landowner to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling unit, density, lot coverage or required open space to the regulations in any one residential district established by any other provisions of this Code.
  - (5)        Regulating and limiting the intensity of the use of the lot area and determining the area of open spaces within and surrounding such buildings.
  - (6)        Providing for certain conditional permitted uses.
  - (7)        Regulating the size, type and location of signs.
  - (8)        Requiring accessory off-street parking and loading facilities.
  - (9)        Defining and limiting the powers and duties of the administrative officers and bodies as provided herein.
  - (10)       Providing for the change and amendment of such regulations and boundaries of the respective districts.
  - (11)       Prescribing penalties for the violation of the provisions of this Code or of any amendment thereto.

ARTICLE II - DEFINITIONS

**40-2-1 RULES FOR CONSTRUCTION.** The language set forth in the text of this Code shall be interpreted in accordance with the following rules for construction:

- (A) The singular number includes the plural and the plural, the singular.
- (B) The present tense includes the past and future tenses and the future, the present.
- (C) The word "shall" is mandatory, while the word "may" is permissive.
- (D) The masculine gender includes the feminine and the neuter.
- (E) All measured distances shall be to the nearest integral foot. If a fraction is **one-half (1/2)** or less, the integral foot next below shall be taken.
- (F) Whenever a word, a phrase or a term defined hereinafter appears in the text of this Code, its meaning shall be construed as set forth in the definition thereof. The word "lot" shall include the words "piece" and "parcel"; the word "building" shall include all other structures of every kind regardless of similarity to buildings; and, the phrase "use for" shall include the phrases "arranged for", "intended for", "maintained for", "designed for" and "occupied for". Synonym, in common usage, of certain words, phrases or terms are shown parenthetically.

**40-2-2 DEFINITIONS.** The following words, phrases and terms, wherever they occur in this Code, shall be interpreted as herein defined:

**Accessory Use or Building:** A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**Agriculture:** Land, including necessary buildings and structures which shall be used for agriculture including, but not limited to, farming, dairying, pasturage, agriculture, horticulture, floriculture, silviculture, viticulture and animal and poultry husbandry, as well as the necessary accessory uses; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities, and providing further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

**Alley:** A public way with a width not exceeding **twenty (20) feet** in right-of-way used primarily as a service access to the rear or side of a property which abuts on a street.

**Alternate Fence Designs:** Designed fences that do not fall clearly under the listed fence types or definitions in this Section shall be submitted for approval by the Planning/Zoning Committee. **(Ord. No. 17-24; 06-12-17)**

**Automotive Service Station:** Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. Uses permissible at an automotive service station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke or other characteristics to an extent greater than normally found in automotive service stations. An automotive service station is not a repair garage nor a body shop. **(See Garage)**

**Basement:** A portion of a building located partly underground, but having less than **one-half (1/2)** of its clear floor-to-ceiling height above the average grade of the adjoining ground. **(See Cellar)**

**Bed and Breakfast Inn:** A structure having historical or architectural character occupied as a residence by the property owner and providing overnight accommodations and in some instances, a meal or meals to occupants. The bed and breakfast inn provides guest accommodations of not more than **three (3) bedrooms** to guests with occupancy of **one (1) week** or less. **(See Rooming House)**

**Buildable Area:** The total area of the parcel minus the area within the required front, rear and side yards.

**Building:** Any structure which is built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land. **(See Structure)**

**Building, Accessory:** A subordinate building or a portion of a principal building, the use of which is incidental and customary to that of the principal building.

**Building, Detached:** A building surrounded by open space on the same lot.

**Building, Principal:** A non-accessory building in which the principal use of the lot on which it is located, is conducted.

**Building, Temporary:** A building not designed to be permanently located in the place where it is or where it is intended to be placed or affixed.

**Bulk:** The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and including the following:

- (A) Size and height of buildings.
- (B) Location of exterior walls at all levels in relation to lot lines, street or to other buildings.
- (C) Gross floor area of buildings in relation to lot area (floor area ratio).
- (D) All open spaces allocated to buildings.
- (E) Amount of lot area provided per dwelling unit.

**Cellar:** The portion of a building located partly or wholly underground and having **one-half (1/2)** or more than **one-half (1/2)**, of its clear floor-to-ceiling height below the average grade of the adjoining ground. **(See Basement)**

**Chain Link Fence:** A fence constructed of chain link material and support posts and top horizontal support piping with a height of no more than **four (4) foot** and no screening or infill material installed. **(Ord. No. 17-24; 06-12-17)**

**Club or Lodge, Private:** A nonprofit association of persons who are bona fide members paying dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

**Common Open Space:** A parcel or parcels of land or an area of water, or a combination of land and water within the site designated for a planned unit residential development, and designed and intended for the use or enjoyment of residents of the planned unit residential development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the planned unit residential development.

**Curb Level:** The level of the established curb in front of a building or structure measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure, measured at the center line of such front.

**Day Care, Commercial:** Any child care facilities receiving more than **eight (8) children** for day-time care during all or part of any day, or facility at which the proprietor does not reside and which receives more than **three (3) children** for care during all or any part of a day for hire.

**Day Care, Family:** A family home in which not more than **eight (8) children** are received for day-time care during all or part of the day for hire.

**District:** A section or part of the incorporated or unincorporated portion of the Village for which the use regulations are uniform.

**Drive-In Establishment:** An establishment which accommodates patrons' automobiles on the immediate premises allowing service to the patrons in their automobiles and/or self-service by the patrons.

**Dwelling:** A residential building, or portion thereof, but not including hotels, motels, rest homes, rooming houses, tourist homes or trailers.

**Dwelling Unit:** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis and, physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. Dwelling units are intended for use exclusively as living quarters for one family and not more than an aggregate of **two (2)** roomers.

**Dwelling, Single-Family:** A detached dwelling unit other than a mobile home, designed for and occupied by one family only.

**Dwelling, Two-Family (Duplex):** A residential building containing **two (2) dwelling units** including detached and semi-detached and attached dwelling units, designed for and occupied by **two (2) families**.

(A) **Attached:** A dwelling unit joint to one other dwelling unit by a party wall.

(B) **Detached:** A dwelling unit in a two-family structure where both units share a common outside entrance and interior common foyer or entry hallway.

(C) **Semi-Detached:** A dwelling unit with its own individual outside entrance in a two-family structure where one unit is above the other.

**Dwelling, Multiple-Family (Apartment):** A detached residential building, surrounded on all sides by open space on the same lot, designed for and occupied by **three (3)** or more families, with a number of families in residence not exceeding the number of dwelling units provided.

**Family:** **One (1)** or more persons related by blood, marriage or adoption, or a group of not more than **five (5) adults** not so related.

**Family Care Home:** A home housing a group of not more than **eight (8)** unrelated persons with handicap or impairment, who with assistance or supervision, reside together in a family-type environment as a single housekeeping unit. Excluded from this definition are current or former criminal offenders and persons whose disability arises from current use or addiction to a controlled substance. The persons in supervision shall be considered in addition to the handicapped or impaired persons in determining number of occupants permitted.

**Fence Material:** Material used in the construction of a fence systems shall be treated wood, cedar, PVC, wrought iron, aluminum, concrete, steel, vinyl, bamboo, chain link, composite or preapproved alternative material. **(Ord. No. 17-24; 06-12-17)**

**Fence, Ornamental:** A fence more than **fifty percent (50%)** open and of a decorative style. Ornamental fences may not be chain link or wire construction. **(Ord. No. 17-24; 06-12-17)**

**Fence, Privacy:** A solid fence primarily for providing privacy or visual screening. **(Ord. No. 17-24; 06-12-17)**

**Flood Plain Area:** That continuous area, adjacent to a stream or stream bed or other natural drainage channels or areas, whose elevation is equal to or lower than the **one hundred (100) year** flood elevation as established by the Flood Plain Code of the Village.

**Floor Area, Gross:** For the purpose of determining floor area ratio, the floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings, measured from the exterior faces of exterior walls or from the center line of party walls separating **two (2) buildings**, in particular, "gross floor area" shall include:

(A) Basement space, if at least **one-half (1/2)** of the basement story height is above the average grade of the adjoining ground.

(B) Elevator shafts and stairwells at each floor.

(C) Floor space used for mechanical equipment where the structural headroom exceeds **seven and one-half (7 ½) feet**; except equipment, open or enclosed, located on the roof, i.e., bulkheads, water tanks and cooling towers.

(D) Attic floor space where the structural headroom exceeds **seven and one-half (7 ½) feet**.

(E) Interior balconies and mezzanines.

(F) Enclosed porches, but not terraces and breezeways.

**Floor Area Ratio:** The numerical value obtained through dividing the gross floor area of a building or buildings by the total area of the lot or parcel of land on which such building or buildings are located.

**Garage, Public:** Any building where automotive vehicles are painted, repaired, rebuilt, reconstructed and/or stored for compensation. **(See Automotive Service Station)**

**Home Occupation:** An occupation conducted in a dwelling unit; provided, that:

(A) No person other than members of a family residing on the premises shall be engaged in such occupation.

(B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than **twenty-five percent (25%)** of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

(C) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding **one (1) square foot** in area, non-illuminated and mounted flat against the wall of the principal building.

(D) No home occupation shall be conducted in any accessory building.

(E) There shall be no direct sales and/or rentals of products off display shelves or racks.

(F) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(G) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

**Hotel or Motel:** A building or buildings designed to accommodate individual sleeping units with no provision for cooking facilities and occupied primarily by transient travelers. The term "hotel" includes inn, lodge. The term "motel" includes motor hotel, motor lodge, tourist court and similar terms.

**Junk Yard:** An open area or fenced-in enclosure where used or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes an auto-wrecking yard, but does not include uses established entirely within enclosed buildings.

**Landowner:** A landowner shall mean the legal or beneficial owner or owners of land. The holder of an option or contract to purchase, a lessee having a remaining term of not less than **forty (40) years**, or other person having an enforceable proprietary interest in such land, shall be deemed to be a landowner for the purpose of this Zoning Code.

**Lodging Room:** A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

**Lot:** For purposes of this Code, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

(A) A single lot of record;

(B) A portion of a lot of record;

(C) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;

(D) A parcel of land described by metes and bounds;  
Provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirement of this Code.

**Lot Area:** The area of a horizontal plane bounded by the vertical planes through front, side and rear lot lines.

**Lot, Corner:** A lot situated at the junction of and abutting on **two (2)** or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is **one hundred thirty-five degrees (135°)** or less.

**Lot Depth:** The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

**Lot Line:** A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.

**Lot, Mobile Home:** The area assigned to a mobile home in a mobile home park.

**Lot of Record:** A lot which is part of a subdivision recorded in the office of the Sangamon County Recorder of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**Lot, Reversed:** A lot on which the frontage is at right angles or approximately right angles (interior angle less than **one hundred thirty-five degrees (135°)** to the general pattern in the area.

**Lot, Through:** A lot defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting **two (2) streets** may be referred to as double frontage lots.

**Lot Width:** Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than **eighty percent (80%)** of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the **eighty percent (80%)** requirement shall not apply.

**Mobile Home:** A mobile home is any vehicle or similar portable structure originally constructed with wheels, whether or not the wheels are still contained thereon, and designed and constructed to permit occupancy for dwelling or sleeping purposes.

**Mobile Home Park:** A mobile home park means any plot of ground upon which **two (2)** or more independent trailers, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

**Motel:** See Hotel.

**Motor Freight Terminal:** A building or premises in which freight is received or dispatched by motor vehicle.

**Off-Street Loading:** A space, accessible from a street, alley or way, in a building or on a lot for the use of trucks while loading or unloading merchandise or materials.

**Plan:** The plan shall mean the proposal for development, including a plat of subdivision, all covenants, grants of easement and other conditions relating to use, location and bulk of buildings, density of development, common open space and public facilities. That plan shall include such information as required

by this Zoning Code. The phrase "Provisions of the Plan" where used in this Code shall mean those documents, verbal or graphic, referred to in this definition.

**Planning and Zoning Commission:** The Rochester Planning and Zoning Commission.

**Planned Unit Residential Development:** An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage or required open space to the regulations in any one residential district established by any other provisions of this Zoning Code.

**Public Service Area:** An area including such uses as fire and police stations, telephone exchanges, radio and television transmitting and relay stations and towers, filter plans and pumping stations and similar uses.

**Refuse:** All waste products resulting from human habitation, except sewage.

**Repair Garage:** See Garage, Public.

**Rest Home (Nursing Home):** A private home for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for treatment of disease or injury, nor does it include maternity care nor care for mental illness or mental infirmities.

**Rooming House (Tourist Home):** A building, or portion thereof, containing lodging rooms which accommodate **three (3)** or more persons who are not members of the keeper's family, and where lodging rooms or meals, or both, are provided for compensation.

**Sanitary Landfill:** A method of disposing of refuse by spreading and covering with earth. Where sanitary landfill is referred to in this Chapter, it shall be construed to be a landfill meeting the regulations of the Illinois Environmental Protection Agency and the Illinois Pollution Control Board.

**Semi-Detached:** See Dwelling Unit.

**Setback, Front Yard:** The minimum horizontal distance permitted between the front line or side line of the building and nearest the street line, disregarding steps and unroofed porches.

**Sign:** A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land; and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices nor shall it include a sign located completely within an enclosed building unless the context shall be exposed to view from a street.

**Sign, Advertising:** A sign which directs attention to a business, commodity, service or entertainment not necessarily sold upon the premises where such sign is located or to which it is affixed.

**Sign, Business:** A sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered, upon the premises where such sign is located or to which it is affixed.

**Sign, Flashing:** Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this Code, any moving, illuminated sign shall be considered a flashing sign.

**Sign, Gross Surface Area Of:** The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However,

such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

**Statement of Objectives for Planned Unit Residential Development:** That statement of objectives contained in the provisions of this Code and shall include all maps and attachments incorporated in that statement by reference.

**Story:** That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above.

**Street (Avenue, Drive, Place, Road, Terrace, Parkway, Boulevard or Court):** A right-of-way of a required width, which affords a primary means of access to abutting property.

**Street Line:** The dividing line between a lot and a contiguous street.

**Structural Alterations:** Any change, other than incidental repairs, in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders; or any substantial change in the roof or exterior walls.

**Structure:** Anything erected, the use of which requires a fixed location on the ground, or attached to something having a permanent location on the ground. A sign, billboard, other advertising medium, accessory shed, residential swimming pools with any ancillary decks and fencing, tool room or other similar building (whether fixed in location or placed on skids) detached or projecting, shall be construed to be a structure.

**Unrelated Group Family Home:** Home for a group of not more than **five (5)** unrelated adults living together as a common household.

**Use:** The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

**Use, Accessory:** A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use except or such accessory parking facilities as are specifically authorized to be located elsewhere.

**Yard:** An open space on a lot which is unoccupied and unobstructed by building structures from ground level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

**Yard, Front:** A yard extending along the full width of the front lot line between side lot lines.

**Yard, Rear:** A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

**Yard, Side:** A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, the yard upon which the building fronts shall be considered the front yard. The yard facing the other street shall be considered the side street yard and the yards between the corner yard and adjoining properties shall be interior side yards.

**Village:** The Village of Rochester.

**Village Board:** The Village Board of Rochester.

**Village Clerk:** The Village Clerk of Rochester.



**ARTICLE III - GENERAL PROVISIONS**

**40-3-1**        **ALLOWABLE USE OF LAND OR BUILDINGS.** The following uses of land or buildings listed below are allowed in the district indicated hereinafter under the conditions specified in this Code.

- (A)            Uses lawfully established on the effective date hereof.
- (B)            Permitted uses as designated in the regulations for each district.
- (C)            Planned unit developments as described in **Article IX** of this Code.
- (D)            Special uses as designated in the regulations for each district.

**40-3-2**        **CONTROL OVER USE.** In all districts, after the effective date hereof, and subject to the provisions as set out in **Article VIII** of this Code on nonconforming uses:

- (A)            Any tract of land may be used.
- (B)            Any lawfully existing or new building or other structure may be used, relocated, enlarged, converted, extended, reconstructed or altered within the limits set forth below.
- (C)            The use of any lawfully established existing building or other structure or tract of land may be continued, changed, extended or enlarged.

The above shall apply for any use of planned unit development or special use allowed by the regulations for the district in which such building or other structure, or tract of land is located, and for no other purpose, and shall conform to all other regulations set forth in the regulations for that district, and to all other applicable regulations of this Code.

**40-3-3**        **CONTROL OVER BULK.** All new buildings shall conform to the regulations established herein for the district in which each building is located. Further, no existing buildings shall be enlarged, reconstructed, structurally altered, converted or relocated in such manner as to conflict, or further conflict, with the bulk regulations of this Code for the district in which such building shall be located.

**40-3-4**        **ACCESSORY BUILDINGS, STRUCTURES AND USES.** Accessory buildings, structures and uses shall be compatible with the principal uses and shall not be established prior to the establishment of the principal use.

**40-3-5**        **YARDS, GENERAL.**

(A)            All yards and other open spaces allocated to a building (or group of buildings comprising one principal use) shall be located on the same lot as such building with the exceptions allowed for the planned unit development. The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space or minimum lot area requirements for any other building.

(B)            No improved lot shall hereafter be divided into **two (2)** or more lots and no portion of any improved lot shall be sold, unless all improved lots resulting from each such subdivision or sale shall conform with all the applicable bulk regulations of the zoning district in which the property is located.

(C)            No yards, now or hereafter provided for a building existing on the effective date of this Code, shall subsequently be reduced below, or further reduced if already less than the minimum yard requirements of this Code for equivalent new construction.

**40-3-6 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS.** The following shall not be considered obstructions when located within a required yard. However, on a corner lot, no permitted obstruction to visibility is allowed within **thirty (30) feet** of a zoning lot corner formed by the intersection of any **two (2)** street lines. Obstructions within **twenty (20) feet** of a zoning lot corner may be permitted where the obstruction is less than **three (3) feet** high and no less than **ten (10) feet** high. Any portion of such a permitted obstruction on a corner lot which is between **three (3) feet** and **ten (10) feet** in height above the ground shall not be greater than **fourteen (14) inches** in diameter. In no case shall the following list of permitted obstructions in yards validate permanent construction where otherwise prohibited.

- (A) In any yard.
  - (1) Air conditioning unit.
  - (2) Arbors or trellises.
  - (3) Chimneys projecting not more than **two (2) feet** into the yards.
  - (4) Fences complying with **Section 40-3-9** of this Code. (**Ord. No. 17-24; 06-12-17**)
  - (5) Flagpoles, not exceeding **thirty-five (35) feet** in height.
  - (6) Ornamental light standards not over **six (6) feet** in height.
  - (7) Outdoor coin telephones and booths (where permitted).
  - (8) Signs in conformance with **Article X** of this Code.
  - (9) Steps.
  - (10) Terraces.
  - (11) Trees and shrubs.
  - (12) Accent walls as an extension of a building, not exceeding **three (3) feet** in height.
- (B) In any rear yard.
  - (1) Accessory noncommercial greenhouses, providing not over **one hundred fifty (150) square feet**.
  - (2) Accessory off-street parking space, open or enclosed garage.
  - (3) Single accessory shed, tool room or other similar building or structure for domestic or agricultural storage providing not over **one hundred fifty (150) square feet**.
  - (4) Children's play equipment.
  - (5) Recreational or drying clothes yard equipment.
  - (6) Satellite dish antennas meeting the requirements of **Section 40-3-10** of this Code.
  - (7) Swimming pools, private.
  - (8) Television antennas.
  - (9) Ornamental windmills and garden furniture.
- (C) In any front yard.
  - (1) Driveways leading to garages or accessory off-street parking spaces located beyond the required front yard.
  - (2) Parking for single-family or duplex residence on a driveway leading directly to a garage or other approved accessory or off-street parking spaces.
- (D) In any side yards.
  - (1) Noncommercial radio and television towers and antennas.
  - (2) Open accessory off-street parking spaces, excluding carports.
  - (3) Satellite dish antennas meeting the requirements of **Section 40-3-10** of this Code.

**40-3-7 REQUIRED YARDS FOR LOTS ADJOINING RESIDENTIAL DISTRICTS.**

(A) In any commercial or industrial district, where a side lot line coincides with a side lot line or rear lot in an adjacent residential district, a side yard shall be provided with at least the width set forth in the following table, and in any commercial or industrial district where a rear lot line coincides with a side lot line or rear lot line in an adjacent residential district, a rear yard shall be provided with at least the depth set forth in the following table:

<u>District</u>	<u>Minimum Width Of Side Yard (in feet)</u>	<u>Minimum Depth of Rear Yard (in feet)</u>
B-1	10	25
B-2	10	25
I-1	20	30
I-2	20	30

(B) No yard required by this Section shall be used for storage or processing of any kind. No side yard required by this Section shall be used for accessory off-street loading.

**40-3-8 LANDSCAPED BUFFERS OR SCREENING REQUIRED FOR LOTS BETWEEN CERTAIN ZONING DISTRICTS.** Newly established industrial uses adjacent or backing on residential or business districts, or newly established business use adjacent or backing on residential districts, or newly established multi-family uses adjacent or backing on single-family uses shall provide and continuously maintain on that property line a dense hedge, tree row or other similar landscape device suitable to visually screen the differing types of adjacent uses from one another. Failure to maintain landscaped buffers or screening shall be considered a violation of this Code.

Plant materials for landscaped screening shall be of general type and size at the time of planting as follows. Where landscape screening is required, a plan shall be provided at the time of submission of the zoning permit indicating the type, size, location and spacing of plant materials to form the landscape screen:

(A) Evergreen Trees: Juniper, fir, spruce, pine, Douglas-fir. At time of planting, evergreen trees shall be a minimum of **five (5) feet** in height with **twenty (20) foot** spacing.

(B) Narrow Evergreen Trees: Columnar Hinoki cypress, pyramidal red-cedar, pyramidal white pine, Douglas arborvitae, columnar, juniper, Swiss stone pine, Hatfield or Hicks yews, columnar giant, arborvitae. At time of planting, narrow evergreens shall be a minimum of **three (3) feet** in height with **six (6) foot** spacing.

(C) Small Trees: Flowering crab, redbud, hornbeam, magnolia, dogwood, hawthorn, hop hornbeam. At time of planting, small trees shall be a minimum of **four (4) feet** in height with **ten (10) foot** spacing.

(D) Large Deciduous Shrubs: Honeysuckle, mock-orange, lilac, cotoneaster, euonymus, viburnum, forsythia, Rose of Sharon, privet, sumac. At time of planting, large deciduous shrubs shall be a minimum of **five (5) feet** in height with **five (5) foot** spacing.

(E) Large Deciduous Trees: Oak, hackberry, planetree (sycamore), ginkgo, linden, hard maple, birch, beech, honeylocust. At time of planting, large deciduous trees shall be a minimum of **eight (8) feet** in height with **thirty (30) foot** spacing.

**40-3-9 FENCES.**  
(A) Requirements in Agricultural, Residential Districts, Business and Industrial Districts. All fences shall comply with the following:

(1) Front Yard Fences on Interior Lots. Ornamental fences not exceeding **four (4) feet** in height are permitted in front yards. Privacy fences are not permitted.

(2) Side Yard Fences on Interior and Corner Lots. Ornamental and privacy side yard fences are permitted in the required side yards of interior lots. For corner lots, ornamental and privacy side yard fences are permitted in the required side yard on the interior lot line side. Ornamental fences not exceeding **four (4) feet** in height are permitted in the required street side yard of a corner lot. Privacy fences are permitted on the side street side of a corner lot providing they comply with the required yard on that street side or if no yards are required, a setback from the side street equal to **one-half (1/2)** the required front yard.

- (3) **Rear Yard Fences.** Fences not over **six (6) feet** in height plus a ground clearance at the base of the fence of **three (3) inches** are permitted in the required rear yard.
- (4) **Electrified Fence.** No fence may be electrified, except for agricultural uses involving containment of livestock in properly zoned areas.
- (5) **Barbed Wire Fence.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within a residential area or subdivision. Industrial property may apply for a variance to allow usage of barbed wire for security purposes to protect property. In an industrial development, if approved by the Planning and Zoning Commission, a fencing system with barbed wiring that is used for security purposes, the barbed wire system shall be a minimum of **three (3) feet** away from any public street, sidewalk, alley or other public way or place with in commercial zoned property.

(B) **Recognized Variations of Fence Requirements.** Application for a variation of the above provisions shall be made in the same manner as provided for other variations of this Code.

(C) **Sports and Recreational Fencing.** Fences erected for purposes of providing fencing around sports or recreation facilities or areas as listed below shall be subject to the height limitations indicated below providing the fence is **seventy-five percent (75%)** open and that the fence is not within **twenty (20) feet** of a zoning lot corner formed by the intersection of any **two (2)** street lines:

<u>Uses</u>	<u>Maximum Height (Feet)</u>
Tennis court (public or private)	12
Baseball diamond backstop (public or private)	16
Swimming pools (public)	8
School recreation and sports areas (public and private)	8

(D) **Private Outdoor Pools, Hot Tubs and Spas.** Fences built around pools, hot tubs and spas containing more than **twenty-four (24) inches (610 mm)** in depth shall be completely surrounded by a fence. Such fence shall be at least **sixty (60) inches** in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than **fifty-four (54) inches (1372 mm)** above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of **six (6) inches (152 mm)** from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

(E) **Outdoor Liquor Sales.** The holder of a Liquor License outdoor permit must surround its outdoor premises with a fence meeting the following conditions:

A permanent privacy fence made of wood or other approved and similar material, and when erected not less than **six (6) feet** in height from the sidewalk or ground level shall be erected. The fence shall be designed in such a manner so that the vision of a person on either side of the fence is obscured when viewing through the fence. The fence shall be constructed in accordance with this Section of the Village Code. The fencing shall be positioned between the area in which alcoholic liquor can be consumed outside and any adjoining residential, village or commercial property.

(F) **Protective Treatment.** Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

(G) **Permits.** Permits must be issued for all fences. The Village shall create a Permit Application for fences. The Village reserves the right, in its sole discretion, to rescind the Permit and remove any fence that is blocking or impacting the drainage and utility access through a Village easement. If a Permit is denied, the denial may be appealed to the Planning and Zoning Commission as provided in the Village Code. The Planning and Zoning Commission shall present their recommendation whether to reverse or uphold the Permit denial to the Village Board of Trustees for their final decision in accordance with existing Village Code.

**(Ord. No. 17-24; 06-12-17)**

**40-3-10**      **SATELLITE DISH ANTENNAS.**

(A)      In any residential zoning district, ground-mounted satellite dish antennas up to **twelve (12) feet** in diameter may be permitted subject to the following criteria:

- (1)      All installations may be located within the buildable area of the lot, or as a permitted obstruction in side or rear yards according to **Section 40-3-6** of this Code.
- (2)      All possible effort shall be made in setting location antennas to prevent obstruction of the antenna's reception window from potential permitted development on adjoining properties.
- (3)      All installations shall employ (to the extent possible) materials and colors that blend with the surroundings.
- (4)      All installations shall include landscape screening treatments located along the antenna's non-reception window axes and low-level ornamental landscape treatments along the reception window axes of the antenna's base. Such treatments shall completely enclose the antenna.

(B)      In any rural or residential zoning district, roof-mounted satellite dish antennas up to **twelve (12) feet** in diameter may be permitted by special use, subject to the following criteria:

- (1)      Demonstration by the applicant that compliance with **Sections 40-3-10(A)(1)** and **(2)** of this Code would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the control of the applicant.
- (2)      The height of the proposed installation does not exceed the maximum height restriction imposed upon primary uses within the district.
- (3)      All applications must include certification by a licensed engineer that the proposed method of roof-mounted installation meets engineering criteria and that the buildings support structure is adequate to sustain resulting loads and that all applicable codes are met.

(C)      In any commercial or industrial zoning district, ground-mounted satellite dish antennas up to **twelve (12) meters** in diameter may be permitted subject to the following criteria:

- (1)      All installations shall comply with the maximum height restrictions imposed upon primary uses.
- (2)      All installations exceeding **twelve (12) feet** in diameter shall be screened with landscape screening from any adjoining residentially zoned land. Such screening can be waived if the antenna is set back a distance at least **five (5) times** its diameter from the residentially zones parcel.
- (3)      All applications for building permits must include certification by a licensed engineer that the proposed installation meet engineering criteria and all applicable codes.
- (4)      All accessory-use installations may be located as a permitted obstruction to any required yards as indicated in **Section 40-3-6** of this Code.

(D)      In any commercial or industrial zoning district, roof-mounted satellite dish antennas up to **twelve (12) meters** in diameter may be permitted by special exception subject to the following criteria:

- (1)      Demonstration by the applicant that compliance with the applicable yard, setback and height restrictions would result in the obstruction of the antenna's reception window; furthermore, such obstruction involves factors beyond the applicant's control.
- (2)      The height of the proposed installation does not exceed the maximum height restriction imposed for primary uses within the district.
- (3)      All application must include certification by a licensed engineer that the proposed method of roof-mounted installation meets engineering criteria so that the building support structure is adequate to sustain resulting loads and that all applicable codes are met. Furthermore, written documentation of such compliance including load distributions within the building's support structure, shall be furnished.
- (4)      Those criteria relating to all special uses listed in **Article XII** of this Code shall apply.

**40-3-11**      **FLOOD PLAIN AREA.** No building or structure shall be erected or no fill placed in the flood plain area, except in compliance with the Village of Rochester Flood Plain Code in **Chapter 14**.

**40-3-12**      **ANNEXATIONS; PROCEDURE FOR ZONING.** All land which may hereafter become a part of the Village as a result of annexation shall be classified and placed in the R-S Zoning District, after which it can, after review and recommendation by the Planning and Zoning Commission, be reclassified following the procedures for hearing and approving amendments to this Code.

**40-3-13**      **PETITIONS FOR ANNEXATION; FILING FEE.** A filing fee in the amount of **Seventy-Five Dollars (\$75.00)** shall be paid by a petitioner or petitioners, whichever the case may be, on each and every petition for annexation to the Village, under the provisions of **Chapter 65, Section 5/7-1-8, Illinois Compiled Statutes**, and any amendments thereto. Said annexation filing fee in the amount of **Seventy-Five Dollars (\$75.00)** shall be paid by the petitioner or petitioners at the time that the original petition for annexation is filed with the Village Clerk. No petition for annexation shall be considered by the Board of Trustees of the Village under the provisions of the above referred to State Statute, until said filing fee has been paid to the Village Clerk pursuant to this Section.

**40-3-14**      **EXCEPTIONS.**

(A)      **Exception to Use Regulations.** The following uses are exempted by this Code and permitted by easement in any district: poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar distributing equipment for telephone or other communication and electric power, gas, water and sewer lines.

(B)      **Exceptions to Height Regulations.** The height limitations of this Code shall not apply to the following structures: cooling towers, church spires, or any portion of the church structure not intended for human occupancy, belfries, cupolas, elevator bulkheads, and domes or other structures or portions thereof not intended for human occupancy, monuments, water towers, derricks, conveyors.

(C)      **Exception in Planned Unit Developments.** If the land to be developed for residential purposes is declared by the owner to be developed under the provisions of **Article IX** of this Code, then types of residential use, height, bulk and other requirements may be excepted as noted in **Article IX** of this Code.

(D)      In accordance with **Section 40-3-9** of the Village Code, Zoning Permits may be issued for Fences, whether ornamental or privacy, and any portable or moveable building in any easement owned or utilized by the Village, including for drainage, utilities or any other purpose provided such fence or building does not block, impede, or negatively impact drainage and utility access through the easement and such use is otherwise allowed and in compliance with the provisions of the Zoning Code and any other applicable Village ordinance.

The Village reserves the right, in its sole discretion, to rescind the Zoning Certificate and remove any fence and any portable or moveable building that is blocking or impacting the drainage and utility access through a Village easement. The Village shall be responsible for the costs of removing the fence or building, but no compensation or other reimbursement shall be owed or paid by the Village.

If a Zoning Certificate is denied, the denial may be appealed to the Zoning Board of Appeals as provided in this Article. A decision to reverse the denial of a Zoning Certificate shall be based on whether the applicant proves the construction of the fence or moveable building will not impair or negatively impact the Village's need to access or utilize the easement.

The Zoning Board of Appeals shall present their recommendation whether to reverse or uphold the Zoning Certificate denial to the Village Board of Trustees for their final decision in accordance with existing Village Code. **(Ord. No. 17-24; 06-12-17)**

**40-3-15**      **INCORPORATION OF ZONING MAP.** The location and boundaries of the districts established by this Code are set forth on the "Zoning District Map", which is hereby incorporated as part of this Code by reference. The Zoning Map, including all amendments thereto, shall be as much a part of this Code as if fully set forth and described herein. Said Map shall be filed with the office of the Village Clerk and shall be made available to public reference at all times during which those offices are open.

**ARTICLE IV – ZONING DISTRICTS**

**40-4-1**        **ESTABLISHMENT OF DISTRICTS.** In order to carry out the purposes of this Code, the following zoning districts are hereby established:

<b><u>DISTRICT</u></b>	<b><u>DESIGNATION</u></b>
Agricultural District	A-1
Residential Suburban District	R-S
Medium Density Residential District	R-1
Duplex Housing Residential District	R-2
Multi-Family Residential District	R-4
Multi-Family Residential District	R-5
General Business District	B-1
Highway and Service Business District	B-2
Light Industrial District	I-1
Heavy Industrial District	I-2

**40-4-2**        **ZONING MAP.** The location and boundaries of such districts established by this Code are shown on the Rochester, Illinois Zoning District Map, which map is hereby incorporated and by reference made a part hereof, a copy of which is on file at the Village Clerk’s office.

**40-4-3**        **ZONING OF STREETS, ALLEYS, PUBLIC WAYS.** Unless otherwise specified all streets, alleys and public ways shall be considered as being in the same zoning district as is abutting land. If a street, alley or public way which has served as the zoning line shall be vacated, such zoning boundary shall remain in the center of the vacation.

**40-4-4**        **INTERPRETATION OF ZONING BOUNDARY LINES.** Where uncertainty arises as to the location of zoning district lines, as indicated on the zoning maps, the following shall apply:

- (A) Zoning district lines generally following streets, alleys or public ways shall be construed as being on the centerline of such ways unless otherwise indicated.
- (B) Zoning district lines generally following lot lines shall be construed as being located on lot lines.
- (C) Zoning district lines generally following Village limit lines shall be construed as the Village limit line.
- (D) Zoning district lines generally following streams or watercourses shall be construed as the centerline of that stream or watercourse.
- (E) Where a subdivided lot held in single ownership and being a lot of record of the date of adoption of this Code is indicated as being divided by a zoning boundary, the entirety of such lot shall be in the district with the most intensive permitted types of uses. The order of intensity of types of permitted uses from the least intensive to the most intensive shall be in the same order as **Section 40-4-1** of this Code.
- (F) Where unsubdivided property is indicated as being divided by a zoning boundary, the actual location of the boundary shall be determined by use of the scale contained on the map.
- (G) Where physical or natural features at the site are at variance with the zoning map, or in cases where the location of the zoning district line is not clarified by the foregoing, the Board of Appeals shall interpret the location of the zoning district line.

**ARTICLE V – AGRICULTURAL AND RESIDENTIAL DISTRICTS**

**40-5-1**      **"A-1" - AGRICULTURAL DISTRICT.** The "A-1" Agricultural District is designed to accommodate and protect agricultural and related uses as well as other uses commonly found in agricultural or rural areas.

(A)            **Permitted Uses.**

- (1)      Agricultural uses.
- (2)      Agricultural produce sales including auction and wholesale establishments for produce.
- (3)      Single-family detached dwellings.
- (4)      Planned unit developments.
- (5)      Churches.
- (6)      Day care, family.
- (7)      Electric and telephone substations.
- (8)      Elementary and high schools.
- (9)      Grain elevators and storage.
- (10)     Nurseries, non-retail greenhouses.
- (11)     Parks and recreation areas, public and private.
- (12)     Public service areas.
- (13)     Riding stables.
- (14)     Wildlife game preserves.

(B)            **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII.**

- (1)      Airports and landing fields.
- (2)      Bed and breakfast inns.
- (3)      Boarding house.
- (4)      Cemeteries including mausoleums or crematories.
- (5)      Colleges, junior colleges, universities.
- (6)      Day care, commercial.
- (7)      Fairgrounds.
- (8)      Family care homes.
- (9)      Golf courses.
- (10)     Hospitals and sanitariums.
- (11)     Nursing and rest homes.
- (12)     Religious institutions other than churches.
- (13)     Sanitary landfills.
- (14)     Slaughter houses.
- (15)     Telephone, radio, television transmitters or radio stations.
- (16)     Unrelated group family homes.

(C)            **Required Lot Area and Width.** All new buildings erected or structurally enlarged shall be on a lot of not less than **one (1) acre** and a lot width at the building line of not less than **two hundred (200) feet.** This requirement may be varied for planned unit developments as outlined in **Section 40-9-4** of this Code, or for nonconforming lots of record as outlined in **Section 40-8-2** of this Code.

(D)            **Required Yard Areas.** Every building hereafter erected or structurally enlarged within the A-1 Agricultural District shall provide or maintain the following yard requirements:

- (1)      **Front Yard.** **Thirty (30) feet.**
- (2)      **Side Yard.**
  - (a)      No side yard of less than **eight (8) feet.**
  - (b)      For the side street side of a corner lot, a minimum yard of not less than **thirty (30) feet.**
- (3)      **Rear Yard.** **One hundred (100) feet.** Corner lots will not be considered to have rear yards, but only front and side yards.



(E) **Building Height.** No limits are imposed on a building height within the A-1 Agricultural District.

(F) **Floor Area Ratio.** No building shall be erected or structurally enlarged to provide a floor area ratio exceeding **twenty one-hundredths (.20)**.

(G) **Required Off-Street Parking.** Required off-street parking shall be as provided in **Article XI** of this Code.

**40-5-2 "R-S" – RESIDENTIAL SUBURBAN DISTRICT.** The purpose of the "R-S" Residential Suburban District is to provide for a low-density single-family residential district.

(A) **Permitted Uses.**

- (1) Single-family detached structures.
- (2) Planned unit developments.
- (3) Churches.
- (4) Day care, family.
- (5) Home occupation.
- (6) Public open space including customary public parks.
- (7) Schools, public, denominational, or private accommodating nursery, elementary, or high school grades with adjacent playgrounds and athletic fields, dormitories and other accessory uses required for operation.
- (8) Seminaries, convents, monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
- (9) Temporary buildings or trailers at construction site but only during period of construction.
- (10) Accessory uses.

(B) **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII**.

- (1) Agricultural uses.
- (2) Bed and breakfast inns.
- (3) Boarding house.
- (4) Cemeteries including mausoleums or crematories.
- (5) Colleges or universities.
- (6) Day care, commercial.
- (7) Electric and telephone substations.
- (8) Family care homes.
- (9) Filtration plants, sewage treatment plants, dumping stations and water reservoirs.
- (10) Libraries.
- (11) Nurseries, not including greenhouses.
- (12) Police and fire stations.
- (13) Public and private outdoor recreation centers including accessory buildings and structures for administration, operation and maintenance, and club house or pavilion facilities including sale of food and soft drinks.
- (14) Unrelated group family homes.

(C) **Required Lot Area and Width.** All buildings erected or structurally enlarged in the R-S Residential Suburban District shall be on a lot of not less than **fourteen thousand five hundred (14,500) square feet** and have a lot width at the building line of not less than **ninety (90) feet**.

(D) **Required Yard Areas.** All buildings erected or structurally enlarged in the R-S Residential Suburban District shall provide or maintain the following minimum yards:

- (1) **Front Yard. Thirty (30) feet.**
- (2) **Side Yard.**
  - (a) No side yard of less than **eight (8) feet**.
  - (b) For the side street side of a corner lot, a minimum yard of not less than **thirty (30) feet**.

- (3) **Rear Yard. Fifteen (15) feet.** Corner lots will not be considered to have rear yards, but only front and side yards.
- (E) **Building Heights.** No building hereafter erected or structurally enlarged shall exceed **thirty-five (35) feet** in height.
- (F) **Floor Area Ratio.** No building shall hereafter be erected or structurally enlarged to provide a floor area ratio exceeding **thirty one-hundredths (.30)**.
- (G) **Required Off-Street Parking.** Required off-street parking shall be as provided in **Article XI** of this Code.

**40-5-3 "R-1" – MEDIUM DENSITY RESIDENTIAL DISTRICT.** The purpose of the "R-1" Residential District is to accommodate single-family detached residential structures at a medium density, primarily in the developed portions of the community existing at the date of this Code.

- (A) **Permitted Uses.**
  - (1) Single-family detached structures.
  - (2) Planned unit developments.
  - (3) Churches.
  - (4) Day care, family.
  - (5) Home occupation.
  - (6) Public open space including customary public parks.
  - (7) Schools, public, denominational, or private accommodating nursery, elementary, or high school grades with adjacent playgrounds and athletic fields, dormitories, and other accessory uses required for operations.
  - (8) Seminaries, convents, monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
  - (9) Temporary buildings or trailers at construction site but only during period of construction.
  - (10) Accessory uses.
- (B) **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII**.
  - (1) Bed and breakfast inns.
  - (2) Boarding houses.
  - (3) Cemeteries including mausoleums or crematories.
  - (4) Colleges or universities.
  - (5) Day care, commercial.
  - (6) Electric and telephone substations.
  - (7) Family care homes.
  - (8) Filtration plants, sewage treatment plants, dumping stations and water reservoirs.
  - (9) Libraries.
  - (10) Nurseries, not including greenhouses.
  - (11) Police and fire stations.
  - (12) Public and private outdoor recreation centers including accessory buildings and structures for administration, operation, and maintenance, and club house or pavilion facilities including sale of food and soft drinks.
  - (13) Unrelated group family homes.
- (C) **Required Lot Area and Width.** All buildings erected or structurally enlarged in the R-1 Medium Density Residential District shall have the following minimum lot areas and lot widths at the building line:
  - (1) **Interior Lots.** Minimum lot area of not less than **ten thousand two hundred (10,200) square feet** and a width at the building line of not less than **eight-five (85) feet**.

- (2) **Corner Lots.** Minimum lot area of not less than **twelve thousand (12,000) square feet** and a width at the building line of not less than **one hundred (100) feet**.
- (D) **Required Yard Areas.** All buildings erected or structurally enlarged in the R-1 Medium Density Residential District shall provide or maintain the following minimum yards:
  - (1) **Front Yard. Twenty-five (25) feet.**
  - (2) **Side Yard.**
    - (a) No side yard of less than **eight (8) feet**.
    - (b) For the side street side of a corner lot, a minimum yard of not less than **twenty-five (25) feet**.
  - (3) **Rear Yard. Ten (10) feet.** Corner lots will not be considered to have rear yards, but only front and side yards.
- (E) **Building Height.** No building hereafter erected or structurally enlarged shall exceed **thirty-five (35) feet** in height.
- (F) **Floor Area Ratio.** No building shall hereafter be erected or structurally enlarged to provide a floor area ratio exceeding **thirty one-hundredths (.30)**.
- (G) **Required Off-Street Parking.** Required off-street parking shall be as provided in **Article XI** of this Code.

**40-5-4 "R-2" – DUPLEX HOUSING DISTRICT.** The purpose of the "R-2" Duplex Housing District is to accommodate a variety of housing types including detached and duplex structures.

- (A) **Permitted Uses.**
  - (1) Single-family detached structures.
  - (2) Two-family dwelling units.
  - (3) Two-family attached dwelling units either with common ownership, or fee ownership of the land and building severed to constitute two individually owned units.
  - (4) Churches.
  - (5) Home occupation.
  - (6) Libraries.
  - (7) Public open space including customary public parks.
  - (8) Schools, public, denominational, or private accommodating nursery, elementary, or high school grades with adjacent playgrounds and athletic fields, dormitories, and other accessory uses required for operation.
  - (9) Seminaries, Convents, Monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
  - (10) Temporary buildings or trailers at construction site but only during period of construction.
  - (11) Accessory uses.
- (B) **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII**.
  - (1) Bed and breakfast inns.
  - (2) Boarding houses.
  - (3) Cemeteries including mausoleums or crematories.
  - (4) Colleges or universities.
  - (5) Day care, commercial.
  - (6) Day care, family.
  - (7) Electric and telephone substations.
  - (8) Family care homes.
  - (9) Filtration plants, sewage treatment plants, dumping stations, and water reservoirs.
  - (10) Police and fire stations.

- (11) Public and private outdoor recreation centers including accessory buildings and structures for administration, operation, and maintenance, and club house or pavilion facilities including sale of food and soft drinks.
- (12) Unrelated group family homes.

(C) **Required Lot Area and Width.** All buildings erected or structurally enlarged in the R-2 Duplex Housing District shall have the following minimum lot areas and lot widths at the building line:

- (1) **Single-Family Dwellings on the Interior Lot.** Lot area of not less than **ten thousand two hundred (10,200) square feet** and a minimum width at the building line of not less than **eight-five (85) feet.**
- (2) **Single-Family Dwelling on Corner Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet.**
- (3) **Two-Family Dwelling on Interior Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet.** Each lot, if ownership is to be severed, to occupy an area of not less than **five thousand (5,000) square feet** and a minimum width at the building line of not less than **thirty-five (35) feet.**
- (4) **Two-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a minimum width at the building line of not less than **one hundred twenty (120) feet.** Each lot, if ownership is to be severed, to occupy an area of not less than **five thousand (5,000) square feet** and a minimum width at the building line of not less than **thirty-five (35) feet.**
- (5) **Two-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a lot width of not less than **one hundred twenty (120) feet.**
- (6) **Two-Family Attached Individual Dwelling Unit on Corner Lot Qualified for Separate Ownership.** Each dwelling unit, if ownership is to be severed, to occupy an area of not less than **eight thousand four hundred (8,400) square feet** and a lot width at the building line of not less than **seventy (70) feet.**

(D) **Required Yard Areas.** All buildings erected or structurally enlarged in the R-2 Duplex Housing District shall provide or maintain the following minimum yards:

- (1) **Front Yard. Twenty-five (25) feet.**
- (2) **Side Yard.**
  - (a) No side yard of less than **eight (8) feet.**
  - (b) For the side street side of a corner lot, a minimum yard of not less than **twenty-five (25) feet.**
  - (c) **Two-Family Attached Individual Dwelling Unit.** No required side yard on attached side of individual dwelling unit.
- (3) **Rear Yard. Twenty (20) feet.** Corner lots will not be considered to have rear yards but only front and side yards.

(E) **Building Height.** No building hereafter erected or structurally enlarged shall exceed **thirty-five (35) feet** in height.

(F) **Floor Area Ratio.** No building shall be erected or structurally enlarged to provide a floor area ratio exceeding **0.4.**

(G) **Required Off-Street Parking.** Required off-street parking shall be as provided in **Article XI** of this Code.

**40-5-5** **"R-4" – MULTIPLE-FAMILY HOUSING DISTRICT.** The purpose of the "R-4" Multiple-Family Housing District is to accommodate housing types including detached and multiple-family structures of no more than **four (4)** dwelling units in a single structure.

(A)

**Permitted Uses.**

- (1) Single-family detached structures.
- (2) Two-family attached dwelling units either with common ownership, or fee ownership of the land and building severed to constitute two individually owned units.
- (3) Multiple-family dwellings of no more than **four (4)** dwelling units in a single structure with the number of families in residence not to exceed the number of dwelling units provided.
- (4) Churches.
- (5) Home occupations.
- (6) Libraries.
- (7) Public open spaces including customary public parks.
- (8) Schools, public, denominational, or private accommodating nursery, elementary, or high school grades with adjacent playgrounds and athletic fields, dormitories, and other accessory uses required for operation.
- (9) Seminaries, convents, monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
- (10) Temporary buildings or trailers at construction site but only during period of construction.
- (11) Accessory uses.

(B)

**Special Uses.**

- (1) Bed and breakfast inns.
- (2) Boarding houses.
- (3) Cemeteries including mausoleums or crematories.
- (4) Colleges or universities.
- (5) Day care, commercial.
- (6) Day care, family.
- (7) Electric and telephone substations.
- (8) Family care homes.
- (9) Filtration plants, sewage treatment plants, dumping stations, and water reservoirs.
- (10) Nurseries, not including greenhouses.
- (11) Nursing homes and rest homes.
- (12) Police and fire stations.
- (13) Public and private outdoor recreation centers, including accessory buildings and structures for administration, operation, and maintenance, and club house or pavilion facilities including sale of food and soft drinks.
- (14) Unrelated group family homes.

(C)

the R-4 Multiple-Family Housing District shall have the following minimum lot areas and lot widths at the building line:

**Required Lot Area and Width.**

- (1) **Single-Family Dwelling on Interior Lot.** Lot area of not less than **ten thousand two hundred (10,200) square feet** and a minimum width at the building line of not less than **eight-five (85) feet**.
- (2) **Single-Family Dwelling on Corner Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet**.
- (3) **Two-Family Dwelling on Interior Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet**. Each lot, if ownership is to be severed, to occupy an area of not less than **five**

**thousand (5,000) square feet** and a minimum width at the building line of not less than **thirty-five (35) feet**.

- (4) **Two-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a minimum width at the building line of not less than **one hundred twenty (120) feet**. Each lot, if ownership is to be severed, to occupy an area of not less than **five thousand (5,000) square feet** and a minimum width at the building line of not less than **thirty-five (35) feet**.
- (5) **Two-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a lot width at the building line of not less than **one hundred twenty (120) feet**.
- (6) **Two-Family Attached Individual Dwelling Unit on Corner Lot Qualified for Separate Ownership.** Each dwelling unit, if ownership is to be severed, to occupy an area of not less than **eight thousand four hundred (8,400) square feet** and a lot width at the building line of not less than **seventy (70) feet**.
- (7) **Multiple-Family Dwelling on Interior Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet**.
- (8) **Multiple-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a minimum width at the building line of not less than **one hundred twenty (120) feet**.

(D) **Required Yard Areas.** All buildings erected or structurally enlarged in the R-4 Multiple-Family Housing District shall provide or maintain the following minimum yards:

- (1) **Front Yard. Twenty-five (25) feet.**
- (2) **Side Yard.**
  - (a) No side yard of less than **eight (8) feet**.
  - (b) For the side street side of a corner lot, a minimum yard of not less than **twenty-five (25) feet**.
  - (c) **Two-Family Attached Individual Dwelling Unit.** No required side yard on attached side of individual dwelling unit.
  - (d) **Multiple-Family Dwelling.** No side yard of less than **ten (10) feet**. For a street side yard of a corner lot, a minimum side yard of **twenty-five (25) feet**.
- (3) **Rear Yard. Twenty (20) feet.** Corner lots will not be considered to have rear yards but only front and side yards.

(E) **Building Height.** No building for a two-family dwelling unit with severed ownership shall be erected or structurally enlarged shall exceed **thirty-five (35) feet** in height.

(F) **Floor Area Ratio.** No building shall be erected or structurally enlarged to provide a floor area ratio exceeding **0.75**. No building for a two-family dwelling unit with severed ownership shall be erected or structurally enlarged to provide a floor ratio exceeding **0:4**.

(G) **Required Off-Street Parking.** Required off-street parking shall be as provided in **Article XI**.

**40-5-6** **"R-5" – MULTIPLE-FAMILY HOUSING DISTRICT.** The purpose of the "R-5" Multiple-Family Housing District is to accommodate housing types including detached, duplex and multiple-family structures.

- (A) **Permitted Uses.**
  - (1) Single-family detached structures.
  - (2) Two-family dwelling units either with common ownership, or fee ownership of the land and building severed to constitute two individually owned units.

- (3) Multiple-family dwellings.
- (4) Churches.
- (5) Home occupations.
- (6) Libraries.
- (7) Public open spaces including customary public parks.
- (8) Schools, public, denominational, or private accommodating nursery, elementary, or high school grades with adjacent playgrounds and athletic fields, dormitories, and other accessory uses required for operation.
- (9) Seminaries, convents, monasteries, and similar religious institutions including dormitories and other accessory uses required for operation.
- (10) Temporary buildings or trailers at construction site but only during period of construction.
- (11) Accessory uses.

(B)

**Special Uses.**

- (1) Bed and breakfast inns.
- (2) Boarding houses.
- (3) Cemeteries including mausoleums or crematories.
- (4) Colleges or universities.
- (5) Day care, commercial.
- (6) Day care, family.
- (7) Electric and telephone substations.
- (8) Family care homes.
- (9) Filtration plants, sewage treatment plants, dumping stations, and water reservoirs.
- (10) Nurseries, not including greenhouses.
- (11) Nursing homes and rest homes.
- (12) Police and fire stations.
- (13) Public and private outdoor recreation centers, including accessory buildings and structures for administration, operation and maintenance, and club house or pavilion facilities including sale of food and soft drinks.

(C)

the R-5 Multiple-Family Housing District shall have the following minimum lot areas and lot widths at the building line:

- (1) **Single-Family Dwelling on Interior Lot.** Lot area of not less than **ten thousand two hundred (10,200) square feet** and a minimum width at the building line of not less than **eight-five (85) feet.**
- (2) **Single-Family Dwelling on Corner Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet.**
- (3) **Two-Family Dwelling on Interior Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet.** Each lot, if ownership is to be severed, to occupy an area of not less than **five thousand (5,000) square feet** and a minimum width at the building line of not less than **thirty-five (35) feet.**
- (4) **Two-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a minimum width at the building line of not less than **one hundred twenty (120) feet.** Each lot, if ownership is to be severed, to occupy an area of not less than **five thousand (5,000) square feet** and a minimum width at the building line of not less than **thirty-five (35) feet.**
- (5) **Two-Family Dwelling on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a lot

width at the building line of not less than **one hundred twenty (120) feet.**

- (6) **Two-Family Attached Individual Dwelling Unit on Corner Lot Qualified for Separate Ownership.** Each dwelling unit, if ownership is to be severed, to occupy an area of not less than **eight thousand four hundred (8,400) square feet** and a lot width at the building line of not less than **seventy (70) feet.**
- (7) **Multiple-Family Dwelling of Four (4) Dwelling Units or Less on Interior Lot.** Lot area of not less than **twelve thousand (12,000) square feet** and a minimum width at the building line of not less than **one hundred (100) feet.**
- (8) **Multiple-Family Dwelling of Four (4) Dwelling Units or Less on Corner Lot.** Lot area of not less than **fourteen thousand four hundred (14,400) square feet** and a minimum width at the building line of not less than **one hundred twenty (120) feet.**
- (9) **Multiple-Family Dwelling of Greater Than Four (4) Dwelling Units on Interior Lot.** Lot area of not less than **fifteen thousand (15,000) square feet** or **three thousand (3,000) square feet** per dwelling unit, whichever is greater, and a minimum width at the building line of not less than **one hundred (100) feet.**
- (10) **Multiple-Family Dwelling of Greater Than Four (4) Dwelling Units on Corner Lot.** Lot area of not less than **eighteen thousand (18,000) square feet** or **three thousand (3,000) square feet** per dwelling unit, whichever is greater, and a minimum width at the building line of not less than **one hundred twenty (120) feet.**

(D) **Required Yard Areas.** All buildings erected or structurally enlarged in the R-5 Multiple-Family Housing District shall provide or maintain the following minimum yards:

- (1) **Front Yard. Twenty-five (25) feet.**
- (2) **Side Yard.**
  - (a) No side yard of less than **eight (8) feet.**
  - (b) For the side street side of a corner lot, a minimum yard of not less than **twenty-five (25) feet.**
  - (c) **Two-Family Attached Individual Dwelling Unit on Interior Lot.** No required side yard on attached side of individual dwelling unit.
  - (d) **Multiple-Family Dwelling of Three (3) or More Dwelling Units.** No side yard of less than **ten (10) feet.**
- (3) **Rear Yard. Twenty (20) feet.** Corner lots will not be considered to have rear yards but only front and side yards.

(E) **Building Height.** No buildings erected or structurally enlarged shall exceed **forty-five (45) feet** in height. No building for a two-family dwelling unit with severed ownership shall be erected or structurally enlarged shall exceed **thirty-five (35) feet** in height.

(F) **Floor Area Ratio.** No building shall be erected or structurally enlarged to provide a floor area ratio exceeding **1.0**. No building for a two-family dwelling unit with severed ownership shall be erected or structurally enlarged to provide a floor ratio exceeding **0:4**.

(G) **Required Off-Street Parking.** Required off-street parking shall be as provided in **Article XI.**

**40-5-7 ZONING REQUIREMENTS SUMMARY TABLE.** The following table shall be found at the conclusion of this Code.



**ARTICLE VI – BUSINESS DISTRICTS**

**40-6-1**      **“B-1” – GENERAL BUSINESS DISTRICT.** The purpose of the “B-1” General Business District is to accommodate a wide range of retail stores, offices and service establishments compatible to a central location within the community as the community’s primary business center.

(A)      **Permitted Uses.**

- (1)      **Residential Uses as Permitted in R-2 District.** Special uses permitted in the R-2 District shall only be permitted as special uses in the B-1 District.
- (2)      Retail stores and shops including florist, gift, china and glassware shops, jewelry stores, appliance, hardware, paint and wallpaper stores, furniture stores and similar uses.
- (3)      Offices of doctors, dentists, lawyers, architects, engineers and similar professions.
- (4)      Automobile parking lots.
- (5)      Banks and financial institutions.
- (6)      Barber and beauty shops.
- (7)      Candy and ice cream stores, including stores making commodities for sale only on premises.
- (8)      Drug stores.
- (9)      Governmental offices, police and fire stations.
- (10)     Hobby stores.
- (11)     Hotels.
- (12)     Libraries and reading rooms.
- (13)     Laundromats with not more than **three (3) employees.**
- (14)     Medical and dental clinics.
- (15)     Motels.
- (16)     Musical instrument sales and repair.
- (17)     Pet stores, but not including outdoor runways or kennels.
- (18)     Photography studios, camera and photo supplies sales, including photo processing as part of the retail business.
- (19)     Post offices.
- (20)     Public meeting halls, clubs, lodges.
- (21)     Real estate and insurance sales offices.
- (22)     Restaurants, but not drive-in restaurants where food is provided to customers in cars.
- (23)     Supermarkets, grocery stores, meat markets, bakeries where goods produced are sold only on premises.
- (24)     Swimming pools.
- (25)     Tailor and dress making shops.
- (26)     Telephone or other utility office.
- (27)     Video rental and sales.

(B)      **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII** of this Code.

- (1)      Automobile sales, service and rental.
- (2)      Day care, commercial.
- (3)      Drive-in restaurants where food is provided to customers in cars.
- (4)      Funeral homes, mortuaries, crematories.
- (5)      Living quarters above or adjoining business.
- (6)      Outdoor amusement enterprises, such as miniature golf, golf driving ranges and similar activities.
- (7)      Radio and television broadcasting studios excluding transmitting towers.
- (8)      Service, cleaning or repair shops for personal, household or garden equipment.

- (9) Veterinarian or animals hospitals, but not including outdoor runways or kennels.
- (10) Contractors or developer’s administrative offices, including offices with interior display and storage areas, but not including any related outdoor storage areas.

(C) **Required Lot Area and Width.** No requirements are imposed on minimum lot area and lot width within the B-1 General Business District.

(D) **Required Yards.** Every building erected or structurally enlarged within the B-1 General Business District shall provide or maintain the following minimum yards, except for certain lots adjoining residential districts which shall conform to **Section 40-3-7** of this Code.

- (1) **Front Yard.** None.
- (2) **Side Yards.** None.
- (3) **Rear Yard. Twenty (20) feet.**

(E) **Building Height.** No building hereafter erected or structurally enlarged shall exceed **sixty-five (65) feet** in height.

(F) **Floor Area Ratio.** No building shall be erected or structurally enlarged to provide a floor area ratio exceeding **two and five-tenths (2.5)**.

(G) **Required Off-Street Parking and Loading.** Required off-street parking and loading shall be as provided in **Article XI** of this Code.

**40-6-2 “B-2” – HIGHWAY AND SERVICE BUSINESS DISTRICT.** The purpose of the “B-2” Highway and Service Business District is to accommodate those businesses which because of their need for large sites, use of outdoor storage or heavy dependence on trucking large material, equipment or supplies are not generally compatible with the uses in the “B-1” General Commercial District.

(A) **Permitted Uses.**

- (1) Automotive service stations.
- (2) Boat sales.
- (3) Bowling alleys.
- (4) Catering establishments.
- (5) Clubs, lodges, fraternal and business organization meeting halls and recreation facilities.
- (6) Drive-in food, refreshment and other business establishments servicing customers in cars.
- (7) Dry cleaning and laundry establishments.
- (8) Exterminating shops.
- (9) Farm supplies but not to include outdoor storage of farm equipment.
- (10) Feed stores.
- (11) Fuel sales, but not bulk plants.
- (12) Garages for repair and servicing of automobiles and trucks, but not to include outdoor storage of other than vehicles awaiting repair or pick-up.
- (13) Hotels and motels.
- (14) Machinery sales, but not to include outdoor storage of machinery.
- (15) Miniature golf courses.
- (16) Roller rinks and ice skating rinks.
- (17) Service, cleaning or repair shops for personal, household or garden equipment.
- (18) Storage, warehousing and wholesale establishments provided within enclosed buildings.
- (19) Swimming pools.
- (20) Veterinarian or animal hospital without outdoor kennels or runways.
- (21) Welding shops.

(B) **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII** of this Code.

- (1) Any of the foregoing operations where outdoor storage of products used or sold on premises is a necessary part of the operation.
- (2) Automobile sales, including lots for outdoor display or storage of new or used automobiles.
- (3) Building material establishments allowed by right providing no manufacturing of materials is done on premises.
- (4) Cartage and express facilities including storage of goods, motor trucks and other equipment.
- (5) Contractors or construction offices and shops such as building, concrete, electrical, masonry, plumbing, refrigeration and roofing, including any related outdoor storage areas.
- (6) Sheet metal shops.
- (7) Farm machinery and supplies sales including lots for the outdoor display of storage of new or used farm equipment.
- (8) Landscaping and garden services, nurseries and horticultural uses.
- (9) Mobile home and recreational vehicle sales and storage, not however to include storage or parking of occupied mobile homes or recreational vehicles.
- (10) Monument sales, including outdoor display and storage of monuments.
- (11) Storage and warehousing involving outdoor storage.

(C) **Required Lot Area and Width.** No requirements are imposed on minimum lot area and lot width within the B-2 Highway and Service Business District.

(D) **Required Yards.** Every building erected or structurally altered within the B-2 Highway and Service Business District shall provide or maintain the following minimum yards, except for certain lots adjoining residential districts which shall conform to **Section 40-3-7** of this Code.

- (1) **Front Yard.** None.
- (2) **Side Yards.** None.
- (3) **Rear Yard. Twenty (20) feet.**

(E) **Building Height.** No building hereafter erected or structurally enlarged shall exceed **sixty-five (65) feet**.

(F) **Floor Area Ratio.** No building hereafter erected or structurally enlarged shall exceed a floor area ratio of **two and five-tenths (2.5)**.

(G) **Required Off-Street Parking and Loading.** Required off-street parking and loading shall be as provided in **Article XI** of this Code.

**ARTICLE VII – INDUSTRIAL DISTRICTS AND PERFORMANCE STANDARDS**

**40-7-1**      **“I-1” – LIGHT INDUSTRIAL DISTRICT.** The purpose of the “I-1” Light Industrial District is to accommodate a wide range of manufacturing and similar industrial facilities which can conform to a high level of performance standards.

(A)            **Permitted Uses.**

- (1) Light manufacturing, fabricating, assembling, packaging, repairing, servicing and processing of materials, goods and products provided entirely within enclosed buildings and conforming with the performance standards contained herein. Outdoor storage of materials is not allowed except where such materials are enclosed by a solid fence or wall. **(Ord. No. 17-24; 06-12-17)**
- (2) Animal hospitals, veterinary clinics, kennels with outdoor runways.
- (3) Agriculture implement sales and service.
- (4) Bottling plants, creameries, dairies.
- (5) Bowling alleys.
- (6) Dry cleaning and laundry plants.
- (7) Greenhouses - wholesale.
- (8) Lumber yards.
- (9) Mail order houses.
- (10) Medical and dental clinics.
- (11) Offices.
- (12) Printing facilities.
- (13) Public utility stations, distribution centers and regulator stations.
- (14) Radio and television studios.
- (15) Research and testing laboratories.
- (16) Restaurants.
- (17) Trade schools.
- (18) Transmitting towers and antennas in conjunction with the principal use on the premises.
- (19) Wholesale outlets, storage and warehousing.

(B)            **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII** of this Code.

- (1) Airports, private and commercial.
- (2) Storage, sale or distribution or primary usage of explosive, highly flammable, highly toxic or radioactive materials.
- (3) Penal and correctional institutions.
- (4) Planned development for industrial districts.
- (5) Sewage treatment plants.
- (6) Bus or truck garages and storage yards.

(C)            **Required Lot Area and Width.** No requirements are imposed on minimum lot area and lot width within the I-1 Light Industrial District.

(D)            **Required Yards.** No building shall hereafter be erected or structurally enlarged within the I-1 Light Industrial District without providing or maintaining the following minimum required yards.

- (1) **Front Yard. Thirty (30) feet.**
- (2) **Side Yards. Twenty (20) feet.**
- (3) **Rear Yard. Twenty (20) feet.**

(E)            **Building Height.** Maximum building height of **sixty-five (65) feet** in the I-1 Light Industrial District.

(F)            **Floor Area Ratio.** No building shall be erected or structurally enlarged which exceeds a floor area ratio of **eighty one-hundredths (.80).**

(G)            **Required Off-Street Parking and Loading.** Required off-street parking and loading shall be as provided in **Article XI** of this Code.

**40-7-2**      **"I-2" – HEAVY INDUSTRIAL DISTRICT.** The purpose of the "I-2" Heavy Industrial District is to provide for and accommodate heavy industrial uses in a manner which minimizes adverse effects.

(A)      **Permitted Uses.**

- (1) All uses permitted as "permitted uses" in the I-1 Light Industrial District.
- (2) Any manufacturing, fabricating, assembly and processing of materials and products not allowed as "permitted uses" in the I-1 District except that uses permitted in the I-1 District as "special uses" shall be permitted in the I-2 District only as special uses.
- (3) Cartage and express facilities including storage of goods, motor trucks and other equipment.

(B)      **Special Uses.** Following are permitted as special uses subject to the public hearing and other special use procedure requirements outlined in **Article XII** of this Code.

- (1) Uses permitted in the I-1 Light Industrial District as "special uses".
- (2) Manufacturing or processing requiring large quantities of water, producing large quantities of waste materials or producing any quantity of toxic, noxious, corrosive or explosive or otherwise hazardous material either as a primary or side product.
- (3) Extraction and processing of stone, sand and gravel including the necessary processing and loading equipment and structures.
- (4) Processing of animal and vegetable products such as tanneries, distilleries, breweries, rendering plants and plants for the production of glue, soap, paint or varnish.
- (5) Manufacturing of coal, tar, petroleum and asphalt products.

(C)      **Required Lot Area and Lot Width.** No requirements are imposed on minimum lot area and minimum lot width in the I-2 Heavy Industrial District.

(D)      **Required Yards.** No building shall hereafter be erected or enlarged within the I-2 Heavy Industrial District without providing or maintaining the following minimum required yards.

- (1)      **Front Yard. Thirty (30) feet.**
- (2)      **Side Yards. Twenty (20) feet.**
- (3)      **Rear Yard. Twenty (20) feet.**

(E)      **Building Height.** Maximum building height of **sixty-five (65) feet** in the I-2 Heavy Industrial District.

(F)      **Floor Area Ratio.** No building shall be erected or structurally enlarged which exceeds a floor area ratio of **eighty one-hundredths (.80)**.

(G)      **Required Off-Street Parking and Loading.** Required off-street parking and loading shall be as provided in **Article XI** of this Code.

**40-7-3**      **PERFORMANCE STANDARDS.**

(A)      **General.** Any new use established in I-1 and I-2 Districts after the effective date of this Code shall be so operated as to comply with the performance standards governing: (i) noise; (ii) vibration; (iii) toxic and noxious matter; (iv) odorous matter; (v) fire and explosive hazards; and (vi) glare and heat, as set forth hereinafter for the district in which such use shall be located. No use already established on the effective date hereof shall be so altered or modified as to conflict with, or further conflict with, the applicable performance standards established hereinafter for the district in which such use is located. No emission or by-product of any industrial use shall violate or exceed State regulations. It shall be the responsibility of all industrial uses to adhere to such regulations, including the obtaining of necessary permits.

Certification from an engineer or scientific testing laboratory approved by the Village, indicating that the use of the land and all processing either does or will comply with the applicable performance standards, shall accompany application for a zoning certificate. Where standards indicated here differ from those of State agencies, the more restrictive shall apply.

(B)

**Noise; I-1 and I-2 Districts.**

- (1) Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter. Impulsive type noises shall be subject to the performance standards hereinafter prescribed; provided, that such noises shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this Article, shall be those noises which cause rapid fluctuation of the needle of the sound level meter with a variation of no more than plus or minus **two (2) decibels**. Noises incapable of being so measured, such as those of an irregular and intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses.
- (2) At no point on the boundary of a residence or business district shall the sound pressure level of any operation or plant (other than background noises not directly under the control of the manufacturer) exceed the decibel limits in the octave bands designated below:

Octave Band Frequency (cycles per second)	Along Residence District Boundaries	Along Business District Boundaries
0 to 75	72	79
75 to 150	67	74
150 to 300	59	66
300 to 600	52	59
600 to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41
over 4,800	32	39

(C)

**Vibrations; I-1 and I-2 Districts.**

- (1) Vibrations within a district shall be controlled so as not to become a nuisance to adjacent uses.
- (2) No industrial operation or activity (except those not under the direct control of the manufacturer) shall cause at any time ground transmitted vibrations in excess of the limits set forth below. Vibrations shall be measured at any point along a residence district boundary line with a **three (3)** component measuring instrument approved by the Zoning Administrator and shall be expressed as displacement in inches:

Frequency (Cycles per Second)	Maximum Permitted Displacement along Residence District Boundaries (Inches)
0 to 10	.0008
10 to 20	.0005
20 to 30	.0002
30 to 40	.0002
40 and over	.0001

(D)

**Toxic and Noxious Matter; I-1 and I-2 Districts.**

No activity or operation shall cause, at any time, the discharge of toxic or noxious matter across lot lines in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to the environment, property or business. Determination of such adverse effects shall be made by the Chairperson of the Planning and Zoning Commission or duly appointed agent.

- (E) **Odorous Matter; I-1 and I-2 Districts.**
- (1) The emission of odorous matter in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall henceforth be unlawful.
  - (2) No activity or operation shall cause, at any time, the discharge of odorous matter in such concentrations as to be detectable without the use of instruments at any point along lot lines.

- (F) **Fire and Explosive Hazards; I-1 and I-2 Districts.**
- (1) The manufacture, utilization or storage of pyrophoric and explosive dusts shall be in accordance with the safety codes of the National Fire Protection Association. Such dusts include, but are not limited to: aluminum, bronze and magnesium powder, powdered coal, powdered plastics, flour and feed, spices, starches, sugar, cocoa, sulphur, grain (storage) and wood flour.
  - (2) In the I-1 District the following additional regulations shall apply:
    - (a) The storage, utilization or manufacture of solid materials or products ranging from incombustible to subject to moderate burning is permitted.
    - (b) The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provided the following condition is met:  
Said materials shall be stored, utilized or manufactured within completely enclosed buildings having incombustible exterior walls or protected throughout by an automatic fire extinguishing system, or said materials may be stored outdoors and such storage shall have **fifty (50) feet** clearance from all property lines.
  - (3) In the I-2 District, the following additional regulations shall apply:
    - (a) The storage, utilization or manufacture of solid materials, ranging from incombustible to subject to intense burning is permitted, subject to all applicable rules and regulations.
    - (b) The storage and utilization of flammable liquids or materials, which produce flammable or explosive vapors or bases, shall be permitted in accordance with the regulations of the office of the State Fire Marshal of the State of Illinois, or any successor agency.

- (G) **Glare and Heat; I-1 and I-2 Districts.** Any operation producing intense glare or heat shall be performed within a completely enclosed building in such manner as not to create a public nuisance or hazard along lot lines. Exposed sources of light shall be shielded so as not to create a nuisance across lot lines. Determination of the nuisance factor in regard to glare or heat intensity shall be made by the Village Manager or duly appointed agent.

**ARTICLE VIII – NONCONFORMING USES**

**40-8-1**        **INTENT.** Within the districts established by this Code or amendments that may later be adopted there exist:

*Lots, Structures, Uses of land and structures, and Characteristics of use*, which were lawful before this Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Code or future amendments. It is the intent of this Code to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Code to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination may be contained but shall not be extended or enlarged after the effective date hereof, shall not have attached on a building or premises, additional signs intended to be seen from off the premises, or shall not have the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Code 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 Code and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

Where excavation 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 work shall be carried on diligently.

**40-8-2**        **NONCONFORMING LOTS OF RECORD.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this Code or amendment thereof, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided, that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Planning and Zoning Commission.

If **two (2)** or more lots or combinations of lots or portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Code, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be undivided parcels for the purposes of this Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Code.

**40-8-3**        **NONCONFORMING USES OF LAND.** Where at the time of passage of this Code lawful use of land exists which would not be permitted by the regulations imposed by this Code, and where such use involves no individual structure with a replacement cost exceeding **One Thousand Dollars (\$1,000.00)**, the use may be continued so long as it remains otherwise lawful, provided:

(A)            No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Code.

(B)            No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Code.



(C) If any such nonconforming use of land ceases for any reason for a period of more than **six (6) months**, any subsequent uses of such land shall conform to the regulations specified by this Code for the district in which such land is located.

(D) No additional structure not conforming to the requirements of this Code shall be erected in connection with such nonconforming use of land.

**40-8-4 NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date hereof of amendment of this Code that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than **fifty percent (50%)** of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code.

(C) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**40-8-5 NONCONFORMING USES OF STRUCTURES.** If lawful use involving individual structures with a replacement cost of **One Thousand Dollars (\$1,000.00)** or more, of structure and premises in combination, exists at the effective date of adoption or amendment of this Code, that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside such building.

(C) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Planning and Zoning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning and Zoning Commission may require appropriate conditions and safeguards in accord with the provisions of this Code.

(D) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for **six (6) consecutive months** or for **eighteen (18) months** during any **three (3) year** period (except when government action impedes access to the premises), the structure, or structures and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than **fifty percent (50%)** of the replacement cost at time of destruction.

**40-8-6 REPAIRS AND MAINTENANCE.** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of **twelve (12) consecutive months** on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding **ten percent (10%)** of the current replacement cost of the nonconforming

structure or nonconforming portion of the structure as the case may be; provided, that the cubic content existing when it became nonconforming shall not be increased.

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

**40-8-7      USES UNDER SPECIAL EXCEPTION PROVISIONS.** Any use which is permitted as a special exception in a district under the terms of this Code (other than a change through Planning and Zoning Commission action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

**ARTICLE IX - PLANNED UNIT DEVELOPMENT**

**40-9-1**

**STATEMENT AND DESIGNATION.**

(A) The Village Board does hereby affirm the following "statement of objectives for planned unit development":

- (1) It is in the interests of the Village to encourage, through a planned development process, innovative housing developments which allow areas of various housing types and densities, and in certain instances, increased numbers of dwellings than would otherwise be permitted under traditional single-family development, providing the development provides benefits of permanent open space, recreational facilities and other amenities not normally provided or required in the traditional subdivision. Other amenities include any or all of street trees, landscaping of multi-family areas, recreational facilities (such as swimming pools, tennis courts, clubhouses) for projects with multi-family development, ornamental street lamps of a character unique to the project (when accompanied by a plan for maintenance acceptable to the Village).
- (2) The planned unit development process should allow increased flexibility in design and improvements required from what is otherwise required in the traditional subdivision requirements (except as specifically noted otherwise here).
- (3) In each planned development, an area should be provided as permanent open space. Such area should be of a size, location and character to contribute to the aesthetic quality and the living environment of the project residents.
- (4) Areas of various housing types shall be arranged to be compatible with each other and with existing land uses on adjacent property.
- (5) All facilities and improvements not to become public should have a plan acceptable to the Village to meet upkeep and maintenance needs.

(B) The Planning and Zoning Commission is hereby designated as the Reviewing Authority.

**40-9-2**

**APPLICATION OF PLANNED UNIT DEVELOPMENT AREA.**

(A) The provisions of this Chapter shall apply only to a tract of land proposed to be developed for **thirty (30)** or more dwelling units (as defined in **Section 40-2-2** of this Code), which tract is under single ownership, and for which an application for a planned unit development is made as hereinafter provided.

(B) Notwithstanding the provisions of paragraph (A) above, an application for a planned unit development on a tract of land for less than **thirty (30)** dwelling units may be filed and a public hearing shall be held thereon, as hereinafter provided, but no tentative approval of such an application shall be given by the Planning and Zoning Commission unless the Commission shall find, upon a showing by the landowner, that the minimum number of dwelling units required by paragraph (A) above shall be waived because a planned unit development is in the public interest and that one or more of the following conditions exist:

- (1) Because of the unusual physical features of the property itself or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise applicable is necessary or appropriate in order to conserve a physical topographic feature of importance to the Village.
- (2) The property or its neighborhood has a particular character or quality importance to the community that will be protected by use of a planned unit development.

**40-9-3 PERMITTED USES.** Uses permitted in a planned unit development may include and shall be limited to:

- (A) Dwelling units in detached, semi-detached, attached or multi-family structure, or any combination thereof; and
- (B) Nonresidential uses of a religious, cultural and recreational nature, and commercial uses to the extent that such commercial uses are designed and intended to serve primarily the residents of the immediate area.
- (C) No commercial use, nor any building devoted primarily to a commercial use, shall be built or established prior to substantial completion of residential buildings as specified herein.

**40-9-4 STANDARDS AND CRITERIA.** A plan shall be consistent with the following general standards for use of land, and the use, type, bulk, design and location of building, the density or intensity of use, the common open space, the public facilities and the development of geographic division of the site:

- (A) The plan may provide for a variety of housing types.
- (B) The total ground area occupied by buildings and structures shall not exceed **twenty percent (20%)** of the total ground area of the planned unit development.
- (C) Architectural style of buildings shall not be a basis for denying approval of a plan unless the development is in an area previously designated by the Village Board as an historical area.
- (D) The burden shall be on the landowner to show that nonresidential uses of a commercial character are intended to serve principally the residents of the planned unit development. No building designed or intended to be used in part or in whole, for commercial purposes shall be constructed prior to the construction of not less than **seventy-five percent (75%)** of the dwelling units proposed in the plan.
- (E) A plan may be proposed to increase the number of dwelling units than would otherwise be permitted on the site providing within the following limitations:

	<u>Maximum Density*</u>	<u>Maximum % of Units</u>
Single-family detached structure	2.2/aces (or 15,000 s.f./unit)	No limit
Single-family detached structure	3.3/aces (or 10,000 s.f./unit)	50%
Duplex structure	4.0/aces	Combination of all
Attached (or townhouse)	6.0/aces	duplex, attached and
Multi-family (under 35' height)	10.0/aces	multi-family not to exceed 25% of units in total project

\*Density is per gross area for area occupied per housing type. Area must be sufficient to meet other needs including off-street parking. Area included within housing type area and utilized to compute the number of units permitted shall not also be considered in meeting open space requirements.

(F) Common permanent open space shall be provided in an amount equal to **fifteen percent (15%)** of the gross area of the site, but in no case less than **three (3) acres**. Open space shall be contiguous space maintained in an attractive natural or landscaped character accessible and usable by right of all residents of the development. Land allocated to areas of various housing types and used to compute the number of units provided in that area shall not be considered as common open space. The Planning and Zoning Commission reserves the right to reject any portion of proposed common open space which in its opinion, by its size, shape, location, character or by the project design, would not sufficiently contribute functionally or aesthetically to the total project and the use and enjoyment of its future residents. Flood plain land as defined in Village ordinances shall not fulfill common open space requirements of planned developments. There shall be provisions for ownership and maintenance of the common open space to

insure its continuity and conservation. In the event that the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interests of the entire Village, then and in such event the Village shall take over the maintenance of said space and charge all such costs of maintenance to landowners within the PUD boundary. Deterioration or not being properly maintained shall be interpreted to include not maintaining landscaping, lack of replacement of dead plant material, not maintaining grassed areas in a mowed condition, and not maintaining recreation facilities in a safe and usable condition.

(G) The plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location and density of such residential units, nonresidential uses and public facilities as are necessary for the welfare of the planned unit development and are not inconsistent with the best interests of the entire Village. Said covenants, easements and other provisions, if part of the plan as finally approved, may be modified, enforced, removed or released only after documentation to the Planning and Zoning Commission, recommendations of the Planning and Zoning Commission, approval of the Village Board and ratification by a simple majority of the landowners affected as indicated by signed petitions circulated by the interested parties.

(H) The Planning and Zoning Commission may designate divisible geographic sections of the planned development by which construction is to be undertaken, and shall, in such case, specify reasonable periods within which development of each such section must be commenced, and may permit in each section deviations of up to **ten percent (10%)** from the number of dwelling units proposed for that section, provided such deviation shall be adjusted for in other sections of the development, so that the number of dwelling units authorized for the entire planned unit development is not affected and that the maximum proportions of allowable housing types are not exceeded. The period of the entire development and commencement date for each section thereof may be modified from time to time by the Planning and Zoning Commission upon the showing of good cause by the landowner; provided, that in no case shall any extension of time for any section exceed **five (5) years**. The landowner shall make such easements, covenants and other arrangements and shall furnish such performance bond in an amount which is equal to the estimated cost of such required improvements plus **fifty percent (50%)** thereof to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of said plan before completion.

(I) The unique character of each proposal for a planned unit development requires the design of that development to have a certain flexibility from specifications contained in the subdivision regulations in **Chapter 34** of this Code, which would otherwise be applicable. However, all streets shall meet the right-of-way and pavement width standards and all streets and utilities shall meet the construction standards of the Village's subdivision regulations in **Chapter 34** of this Code. The Planning and Zoning Commission may give favorable recommendation to a plan even though not submitted in full compliance with other required design and improvement standards of the Village's subdivision regulations in **Chapter 34** of this Code.

**40-9-5            APPLICATION FOR TENTATIVE APPROVAL.**

(A) The Planning and Zoning Commission may, at its discretion, make such written general rules regarding general procedures and form of applications as it may determine, provided they are not inconsistent herewith.

(B) The application for tentative approval shall be executed by or on behalf of the landowner and filed with the Chairman of the Planning and Zoning Commission. The filing fee as specified in this Code, payable to the Village Clerk, shall be submitted to the Village Clerk.

(C) The application for tentative approval shall include such items as the Planning and Zoning Commission by general rules shall specify in order to disclose:

- (1) The location and size of the area involved and the nature of the landowner's interest in the land proposed to be developed.
- (2) The area in acres, the density of land use and housing types proposed to be allocated to parts of the area to be developed.
- (3) The locations, function, ownership and manner of maintenance of common open space.

- (4) Any proposed improvements of a specific character or style to enhance the project or to benefit the residents.
- (5) The use, approximate height, bulk and location of buildings and other structures.
- (6) The feasibility of proposals for the disposition of sanitary waste and storm water, and the provision and distribution of water supply.
- (7) The substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings and structures including proposed easements of public utilities.
- (8) The provisions for parking of vehicles and the location and width of proposed streets and public ways.
- (9) The required modifications in the regulations otherwise applicable to the subject property if pursued under the subdivision regulations as outlined in **Article XI** of this Code.
- (10) In the case of plans which call for development over a period of years, a plan outlining the various geographic sections, proposed numbers of units of housing types within that section, and a schedule showing the time within which applications for final approval of sections of the planned unit development are intended to be filed.

(D) Said application shall also be accompanied by a written statement by the landowner setting forth the reasons why, in his opinion, the planned unit development would be in the public interest and would be consistent with the Village's statement of objectives for planned unit development and with the specific criteria, if any, theretofore published by the Planning and Zoning Commission.

(E) Nothing herein contained shall be deemed to forbid or discourage informal consultations between the landowner and the Planning and Zoning Commission prior to the filing of any application for a tentative approval.

(F) Number of copies and distribution of those copies of the application for tentative approval shall be the same as provided for the preliminary plan in the subdivision regulations as outlined in **Chapter 34** of this Code.

**40-9-6 PUBLIC HEARING.**

(A) Within **sixty (60) days** after the filing of completed application materials pursuant to **Section 40-9-5** of this Chapter a public hearing on said application shall be held by the Planning and Zoning Commission, public notice of which hearing shall be given in the manner for hearings on zoning amendments. The Chairman, or in his absence, the acting chairman, of the Planning and Zoning Commission may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.

(B) A transcript of the hearing shall be caused to be made by the Planning and Zoning Commission, copies of which shall be made available at cost to any part to the proceedings, and all exhibits accepted in evidence shall be identified and duly preserved or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record.

(C) The Planning and Zoning Commission may continue the hearing from time to time, and the Planning and Zoning Commission may refer the matter back to a professional planner of the Village for a further report, a copy of which shall be made available without delay to the landowner or his representative. The landowner shall be responsible for the professional fees related to the review and report of the professional planner.

**40-9-7 FINDINGS OF PLANNING AND ZONING COMMISSION AFTER HEARING.**

The Planning and Zoning Commission shall, within **sixty (60) days** following the conclusion of the public hearing provided for in **Section 40-9-6** above, either (i) recommend granting tentative approval of the plan as submitted; (ii) recommend granting tentative approval subject to required modifications not included in

the plan as submitted; or (iii) deny tentative approval to the plan. In the event tentative approval is recommended, of either the plan as submitted or with conditions, the Planning and Zoning Commission shall, as part of its resolution, set forth the drawings, specifications, comments, elements and conditions and form of bond that shall accompany an application for final approval. In the event tentative approval is granted subject to conditions, the landowner may, within **sixty (60) days** after receiving a copy of the resolution of the Planning and Zoning Commission, recommending approval subject to modifications, notify the Planning and Zoning Commission of his refusal to accept all said conditions, in which case the Planning and Zoning Commission shall be deemed to have denied recommending tentative approval of the plan. In the event the landowner does not notify the Planning and Zoning Commission within said period of his refusal to accept all said conditions, recommendation of tentative approval of the plan, with conditions, shall stand as granted. The grant or denial of recommendation of tentative approval shall be in the form of a written resolution which shall include findings of fact and shall set forth the reasons for the grant or denial, specifying with particularity in what respects the plan would or would not be in the public interest including, but not limited to, findings of fact and conclusions on the following:

(A) In what respects the plan is or is not consistent with the statement of objectives for planned unit development.

(B) The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property including, but not limited to, density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.

(C) The nature and extent of the common open space in the planned unit development, the reliability of the proposals for maintenance and conservation of the common space, and the adequacy or inadequacy of the amount and function of the open space in terms of the densities and dwelling types proposed in the plan.

(D) The plat of the plan and the manner in which said plat does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment.

(E) The relationship, beneficial or adverse of the proposed planned unit development upon other existing development, adjacent or in proximity.

(F) In the case of a plan which proposed development over a period of years, the sufficiency of the terms and conditions proposed to protect the interests of the public and the residents of the planned unit development in the integrity of the plan.

**40-9-8 STATUS OF PLAN AFTER RECOMMENDATION FOR TENTATIVE APPROVAL BY PLANNING AND ZONING COMMISSION.**

(A) A plan recommended for tentative approval by the Planning and Zoning Commission shall be accepted or rejected within **thirty (30) days** after the next regularly scheduled meeting following action of the Planning and Zoning Commission provided action of the Planning and Zoning Commission is at least **fifteen (15) days** prior to the next Village Board meeting and that **eight (8) copies** are promptly (within **seven (7) days**) provided by the owner to be distributed to the Village Board. Village Board action granting tentative approval shall be by simple majority. Village Board tentative approval of plan recommended for tentative approval subject to conditions shall only be granted subject to those same conditions. Within **five (5) days** after Village Board tentative approval, such plan receiving tentative approval shall be certified by the Village Clerk, filed in the Clerk's office, and a certified copy mailed to the landowner. In all cases where tentative approval has been granted, the same shall be noted on the Zoning Map maintained in the office of the Village Clerk.

(B) Tentative approval of a plan shall not qualify a plat of the planned unit development for recording. A plan which has been given tentative approval as submitted or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval), shall not be modified or revoked nor otherwise impaired by action of the Village pending an application or applications.

(C) In the event that a plan is given tentative approval and thereafter, but prior to final approval, the landowner shall choose to abandon said plan and shall so notify the Planning and Zoning Commission in writing, or shall fail to file application or applications for final approval within the required

period of time, the tentative approval shall be deemed to be revoked and all that portion of the area included in the plan for which final approval has not been given shall be subject to those local ordinances applicable thereto immediately prior to the grant of tentative approval, as they may be amended from time to time, and the same shall be noted in the Zoning Map in the office and in the records of the Village Clerk.

**40-9-9            APPLICATION FOR FINAL APPROVAL.**

(A)            An application for final approval may be filed for all the land included in a plan or for a section thereof. Said application shall be filed with the Chairman of the Planning and Zoning Commission within such time as specified in the resolution granting tentative approval. The application shall include such drawings, specifications, covenants, easements and conditions and form of bond as were set forth by resolution at the time of tentative approval. In accordance with the schedule proposed in the application for tentative approval, the landowner may elect to have final approval of only a geographic section or sections of the land included in the plan and may delay, within the time authorized by the resolution, application for final approval of other sections. A public hearing on an application or final approval of the plan or section thereof by the Planning and Zoning Commission shall not be required by ordinance provided the plan, or the section thereof submitted for final approval, is in substantial compliance with the plan theretofore given tentative approval.

(B)            A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval provided any modification by the landowner of the plan as tentatively approved does not: (1) vary the proposed residential density or intensity of use of any section proposed for construction by more than **ten percent (10%)**; or (2) involve a reduction of the area set aside for common open space; nor (3) increase by more than **ten percent (10%)** of the floor area proposed for nonresidential use; or (4) increase by more than **five percent (5%)** the total ground area covered by buildings.

(C)            Although a public hearing shall not be held on an application for final approval of a plan when said plan as submitted for final approval is in substantial compliance with the plan as tentatively approved, the burden shall nevertheless be upon the landowner to show the Planning and Zoning Commission good cause for any variation between the plan as tentatively approved and the plan as submitted for final approval. In the event a public hearing is not required for final approval, once the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the resolution of tentative approval, the Planning and Zoning Commission shall, within **thirty (30) days** of such filing, recommend such plan final approval. However, in the event the plan as submitted contains variations from the plan given tentative approval even though remaining in substantial compliance with the plan as submitted for tentative approval, the Planning and Zoning Commission may, after a meeting with the landowner, not recommend granting final approval and, in which case, shall within **ninety (90) days** from the filing of the application for final approval, so advise the landowner in writing of said refusal, setting forth in said notice the reasons why one or more of said variations are not in the public interest. In the event of such refusal, the landowner may refile his application for final approval without the variations objected to by the Planning and Zoning Commission at any time within which he shall be entitled to apply for final approval, or within **thirty (30) additional days** if the time for applying for final approval, shall have already passed at the time when the Planning and Zoning Commission advised the landowner that the variations were not in the public interest. If the landowner shall fail to refile within said period, he shall be deemed to have refused to accept such requirements and final approval shall be deemed to have been denied.

(D)            In the event the plan as submitted for final approval is not in substantial compliance with the plan as given tentative approval, as provided in paragraph (C) above, the Planning and Zoning Commission shall, within **sixty (60) days** of the date the application for final approval is filed, so notify the landowner in writing, setting forth the particular ways in which the plan is not in substantial compliance. The landowner may either refile his plan in a form which is in substantial compliance with the plan as tentatively approved, or he shall file a written request with the Planning and Zoning Commission that it hold a public hearing on his application for final approval. If the landowner wishes to take either such alternate action, he may do so at any time within which he shall be entitled to apply for final approval, or within **sixty (60) additional days** if the time for applying for final approval shall have already passed at



the time when the Planning and Zoning Commission advised the landowner that the plan was not in substantial compliance. In the event the landowner shall fail to take either of these alternate actions within said time, he shall be deemed to have abandoned the plan. Any such public hearing shall be held within **thirty (30) days** after request for the hearing shall be conducted in the manner prescribed in **Section 40-9-6** hereof. The landowner shall be responsible for expenses incurred by the Village related to such public hearing requested by him for a final plan not in compliance with the plan as given tentative approval. Within **thirty (30) days** after the conclusion of the hearing, the Planning and Zoning Commission shall by resolution either recommend final approval of the plan or deny recommending final approval of the plan. The recommendation or denial of recommendation of the plan shall, in cases arising under this paragraph (D), be in the form and contain the findings required for a resolution on an application for tentative approval set forth in **Section 40-9-7** hereof. A plan recommended for approval by the Planning and Zoning Commission shall be considered at the next Village Board meeting providing that meeting is no sooner than **fifteen (15) days** after the date the Planning and Zoning Commission made its recommendation, and provided the landowner promptly (within **seven (7) days**) makes available copies of the application for distribution to Village Board members. Village Board action approving the plan shall be by simple majority. Village Board action not concurring with Planning and Zoning Commission recommendation shall be by **two-thirds (2/3) majority vote** of the total Board. Village Board action shall not be taken unless all fees and charges, including public hearing expenses for which the landowner is responsible, have been paid.

(E) A plan, or any section thereof, that has been given final approval by the Village Board shall be so certified without delay by the Village Clerk of the Village and shall be filed of record forthwith in the office of the Village before any development shall take place.

(F) Final plats based upon and concurring with a planned unit development plan final approval shall be recommended for approval by Planning and Zoning Commission and approved by the Village Board in the same manner as otherwise required. The only basis for not approving final plats would be variance from the approved final planned unit development plan. Fees for final plats shall be required as specified in **Article XI**.

(G) In the event that a plan, or section thereof, is given final approval and thereafter the landowner shall abandon part or all of said plan and shall so notify the Planning and Zoning Commission in writing or shall fail to complete the planned unit development with a reasonable period of time after final approval has been granted, no development or further development shall take place on the property included in the plan until after the said property is reclassified by enactment of an amendment to this Article in the manner prescribed for zoning amendments in **Section 40-12-2** of this Code.

**40-9-10**      **AMENDMENTS.** This Article may be amended in the manner provided in **Section 40-12-2** of this Code.

**ARTICLE X - SIGN REGULATIONS**

**40-10-1 PURPOSE.** The following regulations are provided to maintain the attractiveness and orderliness of the Village and to protect public safety.

**40-10-2 TYPES OF SIGNS DEFINED.**

**Business Sign:** A sign including any supporting or framing structure which directs attention to a business or profession conducted upon the premises, or to a commodity, service or entertainment sold or offered upon the premises on which the sign is located.

**Free-Standing Sign:** Any sign erected on a freestanding framework supported and affixed by one or more uprights or braces in or upon the ground.

**Roof Sign:** Any sign attached to the roof of a building.

**Sign Area:** The area encompassed within the shortest line drawn around the perimeter of the display, message or wording to include all letters and designs which are part of the sign. The term "sign area" and "gross sign area" are used interchangeably.

**Wall Sign:** Any sign attached to the wall of a building.

**40-10-3 GENERAL APPLICATION OF SIGN REGULATIONS; SIGN PERMIT REQUIRED.** No sign, outdoor advertising structure or display of any character shall be permitted except in conformity with the following regulations. A sign permit is required for erection, construction, placement (including painting) or replacement of any sign to be permanently attached to a building or to be permanently erected as a free-standing sign.

**40-10-4 GENERAL REGULATIONS FOR SIGNS.**

(A) **Flashing, Moving, Glaring Signs Prohibited.** No illuminated business sign shall be of excessive brightness or shall flash, scintillate or move. Time and temperature or message signs not otherwise prohibited under this regulation will be allowed, provided they do not create hazardous or annoying glare.

(B) **Signs Not to Interfere with Traffic-Control Signs.** No business sign shall be so located as to hide from view or so illuminated as to interfere with the effectiveness of any traffic-control device or signal.

(C) **Signs Not to Obstruct Motorist's View.** No business sign or sign structure shall be located in such a manner as to materially impede the motorist's view at any street or highway intersection.

(D) **Signs Exempt from Regulation.** Signs used exclusively for the posting or display of official notices by a public agency or official, or by a person giving legal notice, and signs erected or maintained by a public agency or official, or required by law to be displayed by a public utility for directional warning or informational purposes, are not subject to the regulations of this Chapter. Informational and directional signs (which may include a corporate identity symbol) are exempt from this regulation, as are residential nameplate signs of not more than **one (1) square foot, one (1)** per dwelling except for corner lots which may have one nameplate sign facing each street. Temporary special event signs, portable signs and banners for community and nonprofit sponsored events, providing in use for not more than **fourteen (14) days.**

(E) **Signs Pasting or Painting on Walls Prohibited; Signs Not to Face Adjacent Residential District.** No business sign shall be painted, pasted or posted directly on the surface of any wall. No sign shall be permitted to be placed on any wall, fence or standard facing the side of any adjoining lot located in any residential district, except for those signs permitted in residential districts as provided herein.

(F) **Civic Organization Signs on Entry Roads.** Signs indicating the time and place of meetings of civic organizations are permitted on the main entry roads into town provided only **one (1) sign** structure is utilized to accommodate all such notices on each major entry road.

(G) **Portable Signs Prohibited.** Portable signs mounted on wheels or a chassis so as to be readily moved from place to place are prohibited and must be removed within **six (6) consecutive months** of the effective date of this Code.

(H) **Advertising Signs Prohibited.** Advertising signs and off-premises signs are prohibited.

(I) **Interpretations of Sign Size Limitations of Various Sign Types.** The maximum size limitations herein apply to each facing of a sign structure.

(J) **Free-Standing Signs to Adhere to Setbacks; Limits on Signs Extending into Right of Way.** Except for low silhouette business signs, no free-standing sign shall be established closer to the street than the setback required by the appropriate yard requirement. No portion of any business sign may be placed on or extend over the right-of-way line of any street or highway, except for **one (1) foot** of flush signs where existing buildings have no front or side yards. In lieu of free-standing business signs which must comply with the yard requirements, one low silhouette sign per business of not over **four and one-half (4 ½) feet** in height may be located within the required yard provided not closer to the proposed right-of-way line than **ten (10) feet**, and providing complying with the obstructions to visibility requirements of **Section 40-3-6** of this Code.

(K) **Signs to be Maintained.** All signs shall be maintained in good and safe structural condition. The painted portions of signs shall be periodically repainted and kept in good condition. Illuminated signs shall be kept in proper working order.

(L) **Certain Nonconforming Signs May Continue.** Except where otherwise stated herein, any sign in existence on the effective date of this Code which does not comply with the provisions of this Code may continue in existence as a matter of right and may be maintained and repaired pursuant to the provisions of **Article VIII** of this Code. If nonconforming signs are to be replaced, they shall only be replaced by signs in conformity with sign requirements of this Code.

(M) **Signs to be Placed Only with Consent of Property Owner.** No sign or part thereof shall be located on any property without the consent of the owner, holder, lessee, agent or trustee.

**40-10-5 SIGN REGULATIONS WITHIN RESIDENTIAL DISTRICTS.** The following sign regulations shall pertain to all residential districts:

(A) **Residential Signs With Residential Districts.**

(1) **Building Identification Signs for Multiple-Family Dwellings.** For each multiple-family dwelling, identification signs indicating only the name and address of the building and the name of the management, not exceeding a total of **sixteen (16) square feet** in area. Such signs may not be closer than **eight (8) feet** to any other zoning lot. On a corner lot, identification signs shall be permitted on each street.

(2) **Project Identification Sign for Multi-Building Residential Projects.** A residential project having a number of buildings shall be permitted one additional sign at the major entry with the name of the project only. Such sign shall be not greater than **thirty-two (32) square feet** in area and located not closer than **sixteen (16) feet** to any other zoning lot.

(3) **Sign Height and Projection.** No attached sign shall project higher than **one (1) story** or **ten (10) feet**, whichever is lower, above the curbline. No free-standing sign shall project higher than **seven (7) feet** above the curbline. No attached sign shall project more than **twelve (12) inches** from the wall to which it is attached.

(B) **Nonresidential Signs Within Residential Districts.**

(1) **Church Bulletins, Cemetery Signs, Educational Institutions, Social Facilities and Other Similar Uses.** A single identification sign not

- exceeding **nine (9) square feet** except that on corner lots, **two (2) nine (9) square foot** signs will be permitted, **one (1)** facing each street.
- (2) **Nonconforming Business Signs.** Nonconforming business uses may have exterior signs not exceeding **twelve (12) square feet**.
  - (3) **Parking Area Signs.** Signs designating parking area entrances or exits are limited to **one (1) sign** for each entrance or exit of no more than **three (3) square feet** each. **One (1)** additional sign shall be permitted designating the conditions of use and name of business served by the parking provided the sign does not exceed **nine (9) square feet**. No advertising is permitted on parking area signs.
  - (4) **Sign Height and Protection.** No attached sign shall project more than **one (1) story** or **ten (10) feet** above the curblin and no more than **twelve (12) inches** from the wall to which it is attached. No free-standing sign shall project higher than **seven (7) feet**.

**40-10-6 SIGN REGULATIONS WITHIN BUSINESS DISTRICTS.** The following sign regulations shall pertain to all business districts:

(A) **Sign Uses Permitted.** Sign uses permitted in residential districts shall also be permitted in business districts. The regulations covering permitted uses in residential districts shall also apply in business districts.

(B) **Business Signs in the B-1 Districts.** In the B-1 Business District, business signs are permitted subject to the following conditions:

- (1) **Area of Attached and Free-Standing Business Signs.** The gross area in square feet of all signs attached to the wall of a building shall not exceed **fifteen percent (15%)** of the wall area to which it is attached or of which it is a part. The gross area of all free-standing signs shall not exceed **one (1) square foot** of area per each lineal foot of frontage on the zoning lot.
- (2) **Height and Projection of Signs.** No attached or free-standing sign shall project higher than **twenty (20) feet** above the curblin, and in no case above the roof line. No attached building sign shall project more than **twelve (12) inches** from the wall to which it is attached.
- (3) **Integrated Shopping and Office Centers.** For integrated shopping and office centers in single ownership or under unified control, **one (1)** additional free-standing sign other than those provided for in the B-1 District above, shall be permitted subject to the following:
  - (a) **Sign Content.** Such signs shall indicate only the name and location of such center and the name and type of business of each occupant of the center.
  - (b) **Sign Area.** The gross area in square feet of such additional sign of the zoning lot shall not exceed one times the lineal feet of frontage of such lot, but in no case more than **one hundred fifty (150) square feet**.
  - (c) **Height of Sign.** Such sign shall not project more than **twenty (20) feet** above the curblin.

(C) **Business Signs in the B-2 District.** In the B-2 District, business signs are permitted subject to the following conditions:

- (1) **Sign Area for Attached Business Signs.** The gross area in square feet of all attached signs shall not exceed **twenty-five percent (25%)** of the wall area to which it is attached or of which it is a part. In addition, where a protective canopy exists over a pedestrian area, under canopy business signs are permitted provided no closer than **nine (9) feet** to the sidewalk directly underneath the sign.

- (2) **Sign Area for Free-Standing Business Signs.** The gross area in square feet of all free-standing business signs shall not exceed **one (1) square foot** per each lineal foot of frontage of the zoning lot.
- (3) **Height of Business Signs.** No attached business sign shall exceed **twenty (20) feet** in height nor extend above the roofline. No free-standing business sign shall project higher than **thirty (30) feet** above the curblines.
- (4) **Additional Free-Standing Business Signs at Integrated Retail and Office Building or Complex.** For integrated retail and office building complexes with more than **one (1)** building in single ownership or under unified control, **one (1)** additional free-standing business sign, other than those contained in B-2 District above, shall be permitted subject to the following:
  - (a) **Content.** Such signs shall advertise only the name and location of such center and the name and type of business of each occupant of the center.
  - (b) **Area.** The gross area in square feet of the additional free-standing business sign on the zoning lot shall not exceed **one (1) square foot** per each lineal foot of frontage of zoning lot.
  - (c) **Height.** Such additional free-standing business signs shall not project more than **thirty (30) feet** above the curb level.

**40-10-7 BUSINESS SIGNS WITHIN INDUSTRIAL DISTRICTS.** The following sign regulations shall pertain to business and advertising signs within industrial districts:

(A) **Business Signs are Permitted in the I-1 and I-2 Industrial Districts Area Subject to the Following Conditions.**

- (1) **Sign Area for Attached Business Signs.** The gross area in square feet of all attached business signs shall not exceed **twenty-five percent (25%)** of the wall area to which it is attached or of which it is a part.
- (2) **Sign Area for Free-Standing Business Signs.** The gross area in square feet of all free-standing business signs shall not exceed **one (1) square foot** per lineal foot of frontage on the zoning lot.
- (3) **Height of Business Signs.** No attached business sign shall extend above the roofline. No free-standing business sign shall project higher than **thirty-five (35) feet** above the curblines.

**ARTICLE XI - OFF-STREET PARKING AND LOADING**

**40-11-1 PURPOSE.** The purpose of this Article is to alleviate or prevent congestion of the public streets by establishing minimum requirements for off-street parking and loading of motor vehicles in accordance with the use to be made of the property.

**40-11-2 PROCEDURE.** For all uses except one- and two-family residential structures, an application for a building permit for a new or enlarged building, structure or use shall include a plot plan drawn to scale and fully dimensioned showing any parking or loading facilities to be provided to meet the requirements specified herein.

**40-11-3 GENERAL REQUIREMENTS APPLYING TO BOTH OFF-STREET PARKING AND LOADING.**

(A) **General Application.** No buildings or structures shall be erected or land uses initiated after the effective date of this Article without providing accessory off-street parking and loading as required herein.

(B) **Buildings Under Construction.** Buildings lawfully under construction or approved for construction prior to the adoption of this Article shall not be required to modify or change the approved plans for off-street parking and loading; provided, that such construction is completed within **one (1) year** from the date of passage of this Article.

(C) **Reduction in Parking or Loading Need.** When a building or structure shall undergo any decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said decrease would result in a requirement for fewer total parking or loading spaces through application of the provisions of this Article, parking and loading facilities may be reduced accordingly; provided, that existing parking or loading facilities remaining would at least equal the parking or loading requirements resulting from application of the provisions of this Article to the entire building or structure as modified.

(D) **Increase in Parking or Loading Need.** When a building or structure shall undergo any increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said increase would result in a measurement for additional parking or loading spaces through application of the provisions of this Article thereto, parking and loading facilities shall be increased to accommodate only the additional need as a result of such change.

(E) **Existing Parking or Loading Not to be Reduced.** Accessory off-street parking and loading spaces in existence on the effective date of this Article may not be reduced in number unless already exceeding the requirements of this Article for equivalent new construction; in which event, said spaces shall not be reduced below the number required herein for such equivalent new construction.

(F) **Parking and Loading for Reconstructed Nonconforming Uses.** Any nonconforming building, structure or use in existence on the effective date of this Article shall, if partially destroyed by fire, collapse or other cause and permitted to rebuild or reconstruct under appropriate provisions of this Article, provide off-street parking and loading equivalent to those maintained prior to such damage being sustained.

(G) **Schedule of Requirements for Off-Street Parking and Loading; Requirement for Uses Not Specified.** Schedule for requirements for the number of off-street parking and loading spaces for various uses is provided in this Article. The parking and loading requirements for any use not specified shall be the same as the use in the table set forth in **Section 40-11-6** of this Article, most closely approximating the proposed use.

**40-11-4 ADDITIONAL REGULATIONS APPLYING TO OFF-STREET PARKING ONLY.**

(A) **Limitation of Residential Off-Street Parking.** Residential off-street parking accessory to residential uses and provided in accordance with the requirements of this Article shall be used solely for the parking of vehicles of the owners, occupants or guests of the property to which said parking is accessory.

(B) **Joint or Shared Off-Street Parking.** Off-street parking for different buildings, structures or uses may be provided collectively provided the total number of spaces will equal the total requirements for all such uses sharing the parking facility.

(C) **Guarantee of Off-Site Parking.** When required off-street parking is to be provided elsewhere than on the lot on which the principal use is located, the control and continuing availability of the off-site parking will be guaranteed either by deed or long term lease, and the owner shall be bound by covenants property recorded, requiring the owner, his or her heirs and assigns, to maintain the required number of parking spaces during the existence of the principal use.

(D) **Districts in Which Off-Site Parking is Permitted.** Accessory parking facilities, when provided elsewhere than on the same zoning lot, shall adhere to the following requirements:

- (1) No parking facilities accessory to an apartment use shall be located in an R-S, R-1 or R-2 Residential District, except as included in a planned unit development.

(E) **Location and Layout of Off-Street Parking.**

- (1) Plans for the layout of off-street parking for the purpose of meeting parking requirements shall be in accordance with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width Of One Tier Of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane
0° (parallel parking)	12'	8'	23'	20'	28'
45°	12'	8'6"	20'	32'	52'
60°	15'	8'6"	20'	36'6"	58'
90° (perpendicular parking)	20'	9'	20'	40'	60'

- (2) Interpretation of fractional parking spaces resulting from the application of the parking schedule shall be as follows: A fractional parking space shall be considered as **one (1)** parking space.
- (3) All spaces shall be provided adequate access by means of internal maneuvering lanes. Backing onto a street shall be prohibited.
- (4) Adequate ingress and egress to the parking lot by means of clearly defined drives shall be provided. Parking lot entrances and exits shall be at least **twenty-five (25) feet** distant from any adjacent residential district.
- (5) Parking is permitted in the required front, side or rear yards as specified in permitted obstructions in yards as outlined in **Article III** of this Code.
- (6) For all newly established and expanding uses, all off-street parking areas and drives are to be hard surfaced with bituminous concrete, A-3 or equivalent.
- (7) Landscaped buffers or screening is required to be provided and continuously maintained for off-street parking areas for any business or industrial use adjacent or backing on a residential district or for any apartment use along any side adjoining an R-S, R-1 or R-2 District. Types and sizes of plant material shall be as provided in **Section 40-3-8** of this Code.

(8) Lighting to illuminate parking areas shall be so arranged as to direct lighting away from adjoining properties.

(F) **Handicapped Parking Required.** For any parking area to be used by the general public, oversized handicapped spaces, **sixteen (16) feet** in width and **twenty (20) feet** in length shall be provided according to the following schedule:

<u>Required Off-Street Parking</u>	<u>Required Handicapped Spaces</u>
1 – 20	1
21 – 50	2
51 – 75	3
76 – 100	4
Each additional 50 spaces or portion thereof	1 additional space

**40-11-5 LOCATION OF REQUIRED OFF-STREET PARKING.** The off-street parking facilities required for the uses mentioned in the schedule of parking requirements and for other similar uses, shall be on the same lot or parcel of land as the use they are intended to serve, but in case of nonresidential uses when practical difficulties prevent their establishment upon the same lot, the required parking facilities shall be provided within **three hundred (300) feet** of the premises to which they are appurtenant. Said distance shall be the walking distance between the nearest point of the parking area to the nearest entrance of the building the parking is to serve.

**40-11-6 SCHEDULE OF PARKING REQUIREMENTS.**

(A)

**Parking Required for Residential Uses.**

- (1) **One-Family Dwelling.** Two (2) parking spaces. Garage and drive shall each be considered as one (1) parking space each for single-family residential uses only.
- (2) **Two-Family Dwelling.** Two (2) parking spaces per dwelling unit. Garage and drive shall be considered as one (1) parking space each per dwelling unit.
- (3) **Multi-Family Residential.** One and one-half (1 ½) parking spaces for each dwelling unit having one (1) bedroom. Two (2) parking spaces for each dwelling unit having two (2) or more bedrooms.
- (4) **Elderly Housing.** One (1) space for each three (3) units, plus one (1) space for each employee.
- (5) **Mobile Home Parks.** Two (2) spaces for each mobile home site, plus one (1) space for each employee of the mobile home park.
- (6) **Lodging, Boarding and Rooming Houses.** One (1) space for each three (3) guests at maximum capacity, plus one (1) space for the owner or manager.

(B)

**Parking Required for Institutional Uses.**

- (1) **Churches or Temples.** One (1) space for each four (4) seats in the main worship hall.
- (2) **Elementary and Junior High Schools.** One (1) space for each teacher, employee or administrator in addition to requirements of auditorium, as indicated in paragraph (14) of this Section.
- (3) **Fraternalities, Sororities and Dormitories.** One (1) parking space for each five (5) active members, plus one (1) additional space for the manager.



- (4) **Libraries.** One (1) parking space for each two hundred (200) square feet of floor area.
- (5) **Medical and Dental Clinics.** Five (5) parking spaces per doctor plus one (1) space for each doctor and employee with offices at the clinic.
- (6) **Museums.** One (1) parking space, per each four hundred (400) square feet of floor area.
- (7) **Nursery Schools, Day Nurseries or Child Care Centers.** One (1) space for each employee plus two (2) additional visitor spaces.
- (8) **Nursing and Convalescent Homes and Hospitals.** One (1) space for each four (4) beds, plus one (1) space for each staff, doctor and visiting doctor, plus one (1) space for each three (3) employees.
- (9) **Private Clubs and Lodges (Without Sleeping Accommodations).** One (1) parking space for each four (4) members of the total membership or one (1) space for each four hundred (400) square feet of floor area in the building, whichever is larger.
- (10) **Private Golf, Swimming, Tennis Club or Similar Use.** One (1) space for each four (4) family or individual memberships, plus spaces required for accessory uses such as bar and restaurant areas, as provided for in paragraph (C)(5) of this Section.
- (11) **Public Swimming Pools.** Three (3) parking space for each eight (8) persons at maximum capacity.
- (12) **Public Golf Courses.** Six (6) spaces for each golf hole, plus spaces required for accessory uses, as indicated in paragraph (C)(5) of this Section.
- (13) **Senior High School.** One (1) space for each teacher, employee or administrator and one (1) space for each ten (10) students in addition to requirements of auditorium, as indicated in paragraph (B)(14) of this Section.
- (14) **Stadium, Sports Arena, Auditoriums and Gymnasiums.** One (1) space for each six (6) seats or twelve (12) feet of benches.

(C)

**Parking Required for Business and Commercial Uses.**

- (1) **Planned Commercial or Shopping Centers.** One (1) space for each two hundred (200) square feet of usable floor area or retail area.
- (2) **Beauty Parlor or Barber Shop.** One and one-half (1 ½) spaces for each barber or beauty chair.
- (3) **Bowling Alleys.** Four (4) spaces for each bowling lane, plus spaces required for accessory uses such as bar and restaurant.
- (4) **Convention Halls, Dance Halls, Skating Rinks, Assembly or Exhibition Halls or Other Similar Places of Assembly Without Fixed Seats.** One (1) parking space for each one hundred (100) square feet of usable floor area used for assembly.
- (5) **Establishments Handling the Sale and Consumption on the Premises of Alcoholic Beverages, Food or Refreshments.** One (1) parking space for each one hundred (100) square feet of floor area.
- (6) **Furniture and Appliance Shops, Household Equipment and Repair or Machinery Shops.** One (1) parking space for each six hundred (600) square feet of floor area.
- (7) **Gasoline Service Stations.** One (1) space for each lubrication or service stall, plus one (1) space for each two (2) serviced pumps.
- (8) **Laundromats and Coin-Operated Dry Cleaners.** One (1) space for each four (4) washing or cleaning machines.
- (9) **Miniature or "Par 3" Golf Courses.** Three (3) spaces for each hole, plus one (1) for each employee.

- (10) **Mortuaries.** One (1) space for each one hundred (100) square feet of floor area.
- (11) **Motel, Hotel, Bed and Breakfast or Other Similar Uses.** One (1) space for each occupancy unit, plus one (1) space for each owner and employee, plus for motels and hotels, spaces as required herein for accessory uses such as bar and restaurant.
- (12) **Motor Vehicle Sales and Service.** One (1) space for each four hundred (400) square feet of salesroom, plus one (1) space for each auto service hall.
- (13) **Retail Stores Not Specifically Designated Above.** One (1) parking space for each one hundred fifty (150) square feet of retail floor area.
- (14) **Theaters, Indoor.** One (1) space for each six (6) seats, plus one (1) space for each two (2) employees.
- (D) **Parking Required for Offices and Financial Institutions.**
  - (1) **Banks, Savings and Loan.** One (1) space for each four hundred (400) square feet of usable floor area or customer service area.
  - (2) **Other Business and Professional Offices.** One (1) space for each two hundred fifty (250) square feet of floor area.
- (E) **Parking Required for Industrial Uses.**
  - (1) **Manufacturing and Industrial Uses, Research and Testing Laboratories, Dry Cleaning, Printing, Binding, Publishing, Assembly of Materials and Products and Other Similar Uses.** One (1) parking space for every two (2) employees on the largest shift, including office workers.
  - (2) **Warehouse and Storage Uses.** One (1) parking space for every employee in the largest shift, including office workers.

**40-11-7 ADDITIONAL REGULATIONS APPLYING TO OFF-STREET LOADING ONLY.**

(A) **Location and Layout of Off-Street Loading.** Off-street loading spaces shall be as provided in the schedule of off-street loading requirements. An off-street loading berth shall be a hard-surfaced area of land open or enclosed, other than a street or public way, used principally for the standing, loading or unloading of motor trucks, tractors and trailers so as to avoid undue interference with public streets and alleys. Loading spaces, where required, shall be not less than **ten (10) feet** in width, **forty-five (45) feet** in length and **fourteen (14) feet** in height (**10' x 45' x 14'**), exclusive of access aisles and maneuvering space. Plans for location and layout of off-street loading areas shall meet the following minimum requirements:

- (1) Loading berths shall be no closer than **one hundred (100) feet** to an adjoining residential zoning district unless completely screened along that adjoining side by a building wall not less than **eight (8) feet** in height.
- (2) Location of loading berths shall not obstruct the visibility at intersections.
- (3) Loading berths open to the sky may be located in any required side or rear yard; provided, that loading berths within **one hundred (100) feet** of residential districts are enclosed as specified above; loading berths shall not be located in front yards.
- (4) Fractional loading berths spaces resulting from the application of the schedule of off-street loading requirements shall be considered an additional loading berth.
- (5) Off-street loading areas for office, commercial and industrial uses shall be hard surfaced with bituminous concrete or concrete.

**40-11-8**

**SCHEDULE OF OFF-STREET LOADING REQUIREMENTS.**

(A) For all property uses where loading or unloading of materials and merchandise is an essential part of such business, the following requirements shall apply:

- (1) **Hospitals, Sanitariums and Clinics.** One (1) off-street loading space for the first **forty thousand (40,000) square feet** of gross floor area, plus **one (1)** additional space for each **one hundred fifty thousand (150,000) square feet** of gross floor area in excess of **forty thousand (40,000) square feet**.
- (2) **Retail Shops, Bowling Alleys, Taverns, Restaurants.** One (1) off-street loading space for each structure containing **ten thousand (10,000) to one hundred thousand (100,000) square feet** of gross floor area, plus **one (1)** additional space for each **one hundred thousand (100,000) square feet** of gross floor area in excess of **one hundred thousand (100,000) square feet**.
- (3) **Office Buildings, Including Banks, Business and Professional Offices.** One (1) off-street loading space for each structure containing **forty thousand (40,000) to one hundred thousand (100,000) square feet** of gross floor area plus **one (1)** additional space for each **one hundred thousand (100,000) square feet** of gross floor area in excess of **one hundred thousand (100,000) square feet**.
- (4) **Furniture and Appliance Outlets, Motor Vehicle Sales, Wholesale Stores, Household Equipment or Machinery Sales.** One (1) off-street loading space for each building of **eight thousand (8,000) to twenty-five thousand (25,000) square feet** of gross floor area, plus **one (1) space** for each **twenty-five thousand (25,000) square feet** of gross floor area in excess of **twenty-five thousand (25,000) square feet**.
- (5) **Manufacturing, Research and Testing Laboratories, Laundry and Cleaning Plants, Printing, Binding and Publishing, Warehouse and Storage, Processing and Distribution of Materials and Products.** One (1) off-street loading space for each **ten thousand (10,000) to forty thousand (40,000) square feet** of gross floor area, plus **one (1) space** for each **sixty thousand (60,000) square feet** of gross floor area in excess of **forty thousand (40,000) square feet**.

**ARTICLE XII - ADMINISTRATION AND ENFORCEMENT**

**40-12-1 RESPONSIBILITY FOR ZONING ADMINISTRATION.** The authority for administration of this Article is hereby vested in the Planning and Zoning Commission and the Village Board as outlined herein.

(A) **Duties of the Village Board in Administration of this Code.** The Village Board, in its responsibilities under this Code, shall carry out and perform the following duties:

- (1) Approve the appointment, by the Village Board President, of the Chairperson of the Planning and Zoning Commission.
- (2) Take action, following procedures as outlined herein on the following:
  - (a) Adopting zoning standards, including the Zoning District Map, and take action on subsequent petitions for amendment of such standards.
  - (b) Special use applications.
  - (c) Variation applications.
- (3) Engage professional services as it deems advisable to assist the Planning and Zoning Commission and/or Village Board in review of site development plans and landscape and screening plans of proposed projects.

(B) **Director of the Village Manager in Administration of this Code.** The Village Manager shall carry out and perform the following duties:

- (1) Issue all zoning permits and maintain records of permits issued. Issue all certificates of occupancy and maintain records of certificates issued.
- (2) Maintain necessary forms for permits, appeals, application for zoning amendments, special uses, variances and other matters required to be acted upon by the Planning and Zoning Commission.
- (3) Inform persons in violation of this Code of the provisions of this Code with which they are in noncompliance and the remedies available to them. Notify the Village Board and Village Attorney by letter of persons found in violation.
- (4) Maintain permanent and current records of this Code, including, but not limited to, copies of zoning ordinance including district maps, all maps, planned unit residential developments, amendments and special uses, variations, appeals and applications therefor.
- (5) Receive, file and forward to the Planning and Zoning Commission, applications for special uses, amendments and variations and arrange for proper notice for public hearing. Receive, file and forward to the Planning and Zoning Commission applications for planned developments and arrange for proper notice for public hearing.

(C) **Duties of the Planning and Zoning Commission in Administration of this Code.** The Planning and Zoning Commission of the Village has the following duties and responsibilities under this Code:

- (1) To receive from the Village Manager applications for planned unit residential development.
- (2) Planning and Zoning Commission may establish its own rules and procedures for carrying out its duties.
- (3) Receive from the Chairperson of Planning and Zoning Commission, hear and make determinations of appeals filed by any person, office, department, board or bureau aggrieved by a decision of the Village Manager and notify the Village Manager of such determination.
- (4) Receive from the Village Manager, hear and grant variations of this Code in harmony with the general purpose and intent and only in the specific instances contained in the variation procedures outlined in this Article. Notifying the Village Manager of such variation actions.

- (5) Receive from the Village Manager applications for special exceptions, hear and make determinations consistent with the standards contained in this Code for granting special exceptions. Notify the Village Manager of such decisions.
- (6) Receive from the Village Manager applications for amendment of this Code, hear and make recommendations upon such applications. Notify the Village Board.
- (7) To petition for zoning amendment.

**40-12-2**

(A)

**PROCEDURE FOR ZONING ADMINISTRATION.**

**Zoning Certificate Procedure.**

- (1) No zoning permit pertaining to the use of land, structures or buildings shall be issued by any officer, department or employee of the Village unless the application for such permit has been subjected to administrative review by the Village Manager for compliance with this Code. Any permit issued in conflict with the provisions of this Code shall be null and void. Zoning permits shall not be issued to any applicant so long as that applicant is indebted to the Village for any prior fees of any type.
- (2) Applications for zoning permits shall be filed in written form with the Village Manager on forms prescribed by him indicating:
  - (a) Legal description of the property;
  - (b) Name and address of applicant, owner and contractor;
  - (c) Uses to be established or expanded;
  - (d) Other information deemed appropriate by the Village Manager to clearly denote the nature and character of the intended improvement and use.
- (3) For all uses, except one- and two-family residential structures on platted regular shaped lots, the applications for a zoning certificate shall be accompanied by a drawing to scale showing the actual dimensions as certified by a land surveyor or licensed civil engineer as a true copy of the lot on which the improvement or use is to be placed, accompanied by a drawing to scale of the location on such lot of the proposed building, structure or use, and accessory buildings; and location and height of any fences or landscape screening proposed to be installed. For one- and two-family structures on platted regular shaped lots, the application for a zoning permit shall be accompanied by a dimensioned freehand sketch drawing showing the proposed building, structure or use, nearest distances to lot lines, height of buildings or portions of buildings and location and height of fences or landscape screening proposed to be installed. **(Ord. No. 17-24; 06-12-17)**
- (4) The Village Manager shall approve or deny the issuance of a zoning certificate within **seven (7) days** of the date of filing for such certificate. If not approved within time limit, the zoning permit shall be deemed to be denied.
- (5) Such zoning certificate, once issued, shall be maintained in a prominent location at the premises for which it is issued, and shall not be removed until final inspection and issuance of a certificate of occupancy by the Village Inspector.
- (6) Work or change in use authorized by zoning certificate but not started within **ninety (90) days** shall require a new certificate. Certificates issued for new building construction or expansion shall require the completion of the exterior of building(s) within **three hundred sixty (360) days**. A certificate shall be revoked and notice of violation issued when it shall be found from personal inspection or competent evidence

that the rules or regulations under which it has been issued are being violated.

(B)

**Zoning Certificate of Occupancy Procedure.**

- (1) No building or building addition constructed after the effective date of this Code and no land vacant on the effective date of this Code, shall be used for any purpose until a certificate of occupancy has been issued by the Village Inspector. No change in use shall be made until such certificate of occupancy shall state that the use or occupancy complies with the provisions of this Code.
- (2) Every application for a zoning certificate shall be deemed to be an application for certificate of occupancy.
- (3) No certificate of occupancy for the use of a premises for which a zoning permit has been issued shall be issued until construction has been completed, a final inspection made and the premises certified to be in compliance with the plans and specifications for which the zoning certificate was issued. No certificate of occupancy shall be issued to any applicant so long as that applicant is indebted to the Village for any prior fees of any type. The zoning certificate of occupancy shall be issued or denied within **seven (7) days** after the Village Inspector is notified that the building or premises is ready for occupancy.

(C)

**Variation Procedure.**

- (1) The Planning and Zoning Commission, after a public hearing, may recommend to the Village Board the varying of the regulations of this Code in harmony with their general purpose and intent only in the specific instances hereinafter set forth, where the Planning and Zoning Commission makes finding of fact in accordance with the standards hereinafter prescribed and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Code.
- (2) An application for variation shall be filed in writing with the Village Manager. The application shall contain such information as the Planning and Zoning Commission may, by rule, require. Notice of such public hearing shall be made as prescribed by law. The required legal notice may be supplemented by such additional form of notice as the Planning and Zoning Commission, by rule, may require.
- (3) The Planning and Zoning Commission shall not recommend to the Village Board varying the regulations of this Code, as authorized by this Section, unless it shall first make findings of fact based upon the evidence presented to it in each of the following evidence of which the petitioner is responsible for demonstrating.
  - (a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the zoning district in which it is located;
  - (b) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
  - (c) That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code;
  - (d) That the plight of the applicant is due to unique circumstances and does not result from the actions of the applicant;

- (e) That granting the variation requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures or buildings in the same district;
- (f) That the variation, if granted, will not alter the essential character of the locality.
- (4) No nonconforming uses of neighboring lands or structures, in the same district and no permitted, special or nonconforming uses or lands or structures in other districts shall be considered grounds for the issuance of a variance.
- (5) The Planning and Zoning Commission may require such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set forth in this Article to reduce or minimize the injurious effect of such variation upon other property in the neighborhood and to implement the general purpose and intent of this Code.
- (6) The following situations, and only those situations, are permissible areas in which variations from the regulations of this Code are allowed to be recommended by the Planning and Zoning Commission and granted by the Village Board when in accordance with the standards established in this Section:
  - (a) To permit a yard less than required by the applicable regulations;
  - (b) To permit the use of a lot of record on the effective date of this Code for a use otherwise prohibited solely because of the insufficient area of the lot, but in no event shall the area of the lot be less than **eighty percent (80%)** of the required lot area;
  - (c) To permit the same off-street parking spaces to qualify as required spaces for **two (2)** or more uses; provided, that the maximum use of such facility by each use does not take place during the same hours of the same days of the week;
  - (d) To increase by not more than **twenty-five percent (25%)** the maximum distance that required parking spaces are permitted to be located from the use served;
  - (e) To allow any permitted nonresidential use in a residence district to exceed the floor area ratio imposed by the applicable regulations;
  - (f) To permit a variation in number, size or location of accessory use, accessory area, accessory buildings or structures;
  - (g) Nothing herein contained shall be construed to give or grant to the Planning and Zoning Commission the power to recommend through variations or to the Village Board the authority to alter or change the zoning classifications of the Zoning District Map or to permit a use not otherwise permitted by variation, such power and authority being exercised only by the zoning amendment procedure as outlined in paragraph (E) of this Section.

(D)

**Appeals Procedure.**

- (1) An appeal may be taken to the Planning and Zoning Commission by any person or by any officer, department, board or bureau aggrieved by a decision of the Village Manager or his authorized agent. Such an appeal shall be taken within **forty-five (45) days** of the action complained of, by filing with the Chairperson of the Planning and Zoning Commission a notice of appeal specifying the grounds thereof. The Chairperson of the Planning and Zoning Commission shall forthwith transmit to the Planning and Zoning Commission all the papers constituting a record upon which the action appealed from was taken.

- (2) An appeal shall stay all proceedings in furtherance of the action appealed unless the Chairperson of the Planning and Zoning Commission certifies to the Planning and Zoning Commission, after notice of the appeal has been filed with the Village Clerk, that by reason of facts stated in the appeal, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed unless by a restraining order which may be granted by the Planning and Zoning Commission or by a court of record in application of the Village Manager and on due cause shown.
- (3) The Planning and Zoning Commission shall select a reasonable time and place for the hearing of the appeal and give notice thereof to the parties and shall render a written decision on the appeal without unreasonable delay. The Planning and Zoning Commission may affirm or may reverse, wholly or in part, or modify the order, requirement, decision or determination that, in its opinion, ought to be done; and to that end, shall have all the powers of the officer from whom the appeal is taken. The Village Manager shall maintain records of all actions of the Planning and Zoning Commission relative to appeals.

(E)

**Zoning Amendment Procedure.**

- (1) Amendments may be proposed by the Village Board of Trustees, the Planning and Zoning Commission, or any person; provided, that any person shall have a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a freehold interest or any exclusive possessory interest (with the concurrence of the person holding the freehold interest) which is specifically enforceable in the land which is described in the application for amendment. Any proposal shall set forth names of owner of all benefiting interests in any land trusts wherein a land trust is proposing such amendment.
- (2) An application for an amendment shall be obtained from and filed with the Village Manager. Such applications for zoning amendments shall be in a form so that the application, when complete, including required accompanying material, shall provide such information as required by Planning and Zoning Commission for its review. Application for amendments initiated by the Planning and Zoning Commission, or Village Board of Trustees shall include a copy of the minutes of that body approving the filing of an application for zoning amendment. Applications for zoning amendments initiated by any person described above as eligible to petition for a zoning amendment, shall not be considered nor scheduled for public hearing until the zoning amendment fee has been deposited with the Village Clerk to partially cover the cost of this procedure, and under no condition shall such sum or any part thereof be refunded for failure of said amendment to be enacted into law.
- (3) Once the Zoning Code amendment has been filed with the Village Manager, the Village Manager shall arrange proper legal notice, as required by law, and schedule for public hearing the next regular Planning and Zoning Commission meeting which fulfills minimum public notice requirement.
- (4) The Planning and Zoning Commission shall hold a public hearing on each application for zoning amendment at the time and place scheduled in the public notice. The hearing shall be conducted and a record of proceedings preserved in the manner as from time to time prescribed by the Planning and Zoning Commission. Where additional information is required for the Commission's review, the Board, by official action, may continue the



hearing to the time and place of the next Planning and Zoning Commission meeting.

- (5) Within **forty-five (45) days** after the close of the hearing on a proposed amendment, the Planning and Zoning Commission shall make its recommendation to the Village Board. On applications for zoning amendments which would change the zoning classification of a particular property, the recommendation shall include findings of fact bearing on the decision. Such findings of fact shall relate to matters such as:
- (a) Existing uses of other property within the general area of the subject property;
  - (b) Evidenced recent trends in land use development of the general area;
  - (c) Any conditions which render the property less desirable or inappropriate for the uses to which it is presently zoned;
  - (d) Availability of other areas already zoned for such uses;
  - (e) The zoning amendment, if granted, serves the public interest and does not solely benefit the property of the applicant alone;
  - (f) The amendment would not be inconsistent with the objectives of the Comprehensive Plan.

In its findings of fact and recommendation to the Village Board, the Planning and Zoning Commission may recommend approval or disapproval, or recommend the change of zoning classification of the subject property to any other more restrictive zoning classification than specified in the public notice.

- (6) The Village Board shall not act upon a proposed amendment to this Code until it shall have received a written report and recommendation from the Planning and Zoning Commission except, however, that no action by the Planning and Zoning Commission within **forty-five (45) days** of the public hearing of the matter shall be deemed to be a favorable recommendation. A favorable vote of **two-thirds (2/3)** of the Trustees then holding office will be required to adopt a zoning amendment not recommended by the Planning and Zoning Commission.
- (7) The Village Board, after receiving the recommendation of the Planning and Zoning Commission, or after the above prescribed time period, if no report is received and without further public hearing may grant or deny any proposed zoning amendment, or may refer it back to the Planning and Zoning Commission for further study. In case of a written protest against any proposed zoning amendment signed and acknowledged by the owners of **twenty percent (20%)** of the frontage proposed to be altered or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across the alley therefrom or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered, as to regulations or district, filed with the Village Clerk, such amendment shall not be passed except by the favorable vote of **two-thirds (2/3)** of the Trustees then holding office.
- (8) The Zoning Administrator shall cause to be published, no later than **March 31** of each year, a zoning district map clearly showing the existing zoning uses, divisions, restrictions, regulations and classifications for the preceding calendar year. If, in any calendar year, there are no changes in the zoning uses, division, restrictions, regulations and classifications no map need be published for such calendar year. The Village Board may establish a fee to be charged each person desiring a copy of such map. Such fee shall be paid to the Village who shall account for such moneys. Such fees shall be applied to defray the costs of publishing the zoning map.

(F)

**Special Use Procedures.**

- (1) Applications for special use may be filed by any person having a freehold interest in land or a possessory interest entitled to exclusive possession (with the concurrent of the person holding the freehold interest) or a contractual interest which may become a freehold interest or an exclusive possessory interest which is specifically enforceable.
- (2) An application for a special use permit shall be obtained from and filed with the Village Manager. Such application for a special use permit shall be in a form so that the application, when complete, including required accompanying material, shall provide such information as required by the Planning and Zoning Commission for its review. The accompanying material shall include a written statement signed by the applicant as to how the standards for the granting of the special use permit are met. These standards shall include:
  - (a) That the proposed use will not adversely affect other property developed or able to be developed to the uses already permitted;
  - (b) That adequate utilities, access roads, drainage and other necessary supporting facilities have been or are being provided;
  - (c) That adequate measures have been provided to accommodate ingress and egress so as to avoid congestion, not unduly impede surrounding traffic flows or create hazardous or unsafe conditions;
  - (d) That the standards for site development, will be such as to enhance the proposed use and its setting, screen or so locate parking, loading, storage and less attractive accessory uses away from public view, and to otherwise complement the visual appearance of the area in which the proposed project is to be located. The applicant may offer or the Planning and Zoning Commission may require a site development and landscape and screening plan as part of the applicant's written statement;
  - (e) That the proposed special use, if permitted, will conform to all other requirements of the district in which it is to be located or if not conforming, a listing of necessary variations which will be required subsequent to the granting of the special use permitted by the Village Board.
- (3) Once the special use application has been filed with the Village Manager, the Village Manager shall arrange proper legal notice as required by law and schedule the public hearing for the next regular Planning and Zoning Commission meeting which fulfills minimum public notice requirements.
- (4) The Planning and Zoning Commission shall hold a public hearing on the proposed special use at the time and place scheduled in the public notice. The hearing shall be conducted and a record of the proceedings preserved in the manner as from time to time prescribed by the Planning and Zoning Commission.
- (5) Within **forty-five (45) days** of the close of the hearing on the proposed special use, the Planning and Zoning Commission shall make its recommendation to the Village Board attaching the applicant's signed statement and any other conditions suggested by the Planning and Zoning Commission. The Village Board may recommend granting or denying the special use permit and may modify or attach any additional conditions to which the proposed special use would be subject.
- (6) The granting of a special use by the Village Board shall constitute authorization for the Village Manager to issue a zoning certificate for the proposed use subject to any conditions imposed in the granting.

- (7) Special uses approved by the Village Board shall be designated on the Zoning Map by a symbol. Failure of the applicant or other subsequent person continuing the special use, from continually maintaining the use in a manner complying with the conditions under which the use was granted, shall constitute a zoning violation subject to the penalties of this Code. In the event of termination of a special use, permitted uses under the applicable zoning classification shall be the only uses allowed and for which subsequent building permits or use permits may be issued.

**40-12-3 INTERPRETATION AND RELATION TO OTHER ORDINANCES AND RESTRICTIONS.** In interpreting and applying the provisions of this Code, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, morals and general welfare. It is not intended by this Code to interfere with, abrogate, annul or repeal any ordinance, rules or regulations previously adopted and not in conflict with any of the provisions of this Code or which shall be adopted pursuant to law relating to the use of buildings or premises, nor is it intended by this Code to interfere with, abrogate or annul any easements, covenants or other agreements between parties, except that where this Code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or required larger open spaces than other covenants or other agreements, the provisions of this Code shall control.

**40-12-4 REPEAL OF PRIOR ZONING REGULATIONS.** Upon the adoption of this Code taking effect, the following existing zoning rules and regulations of the Municipal Code are hereby repealed and superseded by this regulation:

(A) **Article X.**

**40-12-5 PENALTIES.**  
(A) **Violations and Penalties.** Any person or any entity which violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Code shall be fined not less than **Fifty Dollars (\$50.00)** nor more than **One Hundred Dollars (\$100.00)** for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(B) **Village May Pursue Additional Remedies to Violations.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this Code, the proper authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

**40-12-6 FEES.** An application for an amendment, special use or variation, filed by or on behalf of the owner or owners of the property affected shall be accompanied by a fee of **Seventy-Five Dollars (\$75.00)**. An application for a planned development shall be accompanied by a fee of **Two Hundred Fifty Dollars (\$250.00)**. Final plats of all or a portion of a planned development project shall be accompanied by the final plat fee as outlined in **Article XI** of this Code. An application for an appeal shall be accompanied by a fee of **Ten Dollars (\$10.00)**. An application for a zoning amendment shall be accompanied by a fee of **Twenty-Five Dollars (\$25.00)**. Application for a zoning certificate shall be accompanied by a fee of **Thirty Dollars (\$30.00)**. Application for a zoning certificate shall also be construed as an application for the certificate of occupancy for which no fee is required.

**[This Code Ord. No. 15-08; 08-31-15]**