

CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

40-1-1 **PURPOSE.** In accordance with State Law, (**See 65 ILCS 5/11-13-1 et seq.**), this Code regulates lots, structures, and land uses in order to preserve, protect, and promote the public health, safety, and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

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

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

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

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

(E) to protect property from damage caused by fire, flooding, and improper sewage disposal, poorly controlled storm water and adverse soil and topographical conditions;

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

(G) to ensure the proper design and improvement of mobile home parks;

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

(I) to provide for the efficient administration and fair enforcement of all the substantive regulations set forth herein;

(J) to assist in implementing this community plan. (**See 65 ILCS 5/11-13-1**)

40-1-2 **JURISDICTION.** This Code shall be applicable within the corporate limits of Breese and within all territory located in Illinois within said limits, provided such territory is not located within the zoning jurisdiction of another municipality.

40-1-3 **INTERPRETATION, CONFLICT WITH OTHER ORDINANCES.** Every provision of this Code shall be construed liberally in favor of the City, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted and effective ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-4 **DISCLAIMER OF LIABILITY.**

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

of his duties under this Code. (**See "Local Governmental and Governmental Employees Tort Immunity Act", Ill. Comp. Stats., Ch. 745 10/1-101 et seq.**)

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

40-1-5 SEVERABILITY. If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

ARTICLE II - DEFINITIONS

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

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

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and the plural shall include the singular.

(E) The term "**shall**" is mandatory; the term "**may**" is discretionary.

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

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

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

40-2-2 SELECTED DEFINITIONS.

"ABANDONMENT" means an action to give up one's rights of interests in property.

"ABUTTING" means having a common lot line or district line. (Synonym for "adjacent" or "adjoining".)

"ACCESS WAY" means a curb cut, ramp, driveway, or other means for providing vehicular access to an off-street parking or loading area.

"ACCESSORY BUILDINGS".

(A) In any residential district there shall be no more than **two (2)** accessory buildings located on a single lot.

(B) (1) Accessory buildings which are less than **one hundred twenty (120) square feet** in size do not require a building permit and do not require placement on a concrete pad.

(2) Accessory buildings which are more than **one hundred twenty (120) square feet**, but less than **two hundred (200) square feet** in size require a building permit prior to construction or placement and must be placed on a concrete pad.

(3) Accessory buildings which are more than **two hundred (200) square feet** in size require a building permit prior to construction or placement and must be affixed to a permanent foundation.

(Ord. No. 1349; 08-16-16)

"ACCESSORY USE" means any structure or use that is:

(A) subordinate in size or purpose to the principal structure or use which is served;

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

(C) located on the same lot as the principal structure or use served; and

(D) all poured concrete (driveway, basketball pads, patios, sidewalk and dog kennels) must remain a minimum of **two (2) feet** from the property line.

(Ord. No. 1349; 08-16-16)

"ADMINISTRATOR" means the official appointed by the Mayor, with the advice and consent of the City Council, or his representative to administer this Code. **(Synonymous with "Zoning Administrator" or "Zoning Official".)**

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

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

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

"ALTER" means to change the size, shape or use of a structure, or the moving from one location to another.

"AMENDMENT" means a change in the provisions of this Code (including the District Map), properly effected in accordance with State Law and the procedures set forth herein.

"ANCHOR" means any approved device to which a mobile home is tied down to keep it firmly attached to the stand on which it is placed.

"APARTMENT" a dwelling unit in a multi-family dwelling or apartment house available for rental.

"ATTACHED", as applied to buildings, means having common wall and/or a common roof.

"BASEMENT" means a story having more than **one-half (1/2)** of its height below the average level of the adjoining ground.

"BED AND BREAKFAST INN" means an owner or operator occupied residence providing accommodation for a charge to the public with no more than **five (5)** guests rooms for rent, and must be in operation for more than **ten (10) nights** in a **twelve (12) month** period. Breakfast only may be served and only to overnight guests. "Bed and Breakfast" may not include hotel, motel, boarding house or food service establishment (except as otherwise provided herein). Parking must be provided for a Bed and Breakfast Inn in compliance with **Section 40-7-7(A)** for "Lodging Houses". Signage for a Bed and Breakfast Inn must be in compliance with **Section 40-8-9(I)**. **(Ord. No. 1173; 05-05-08)**

"BILLBOARD" means any single- or double-faced sign displaying messages or advertising not associated with the premises on which the sign is located or to which it is affixed.

"BITUMINOUS CONCRETE" means a mixture of petroleum by-products and gravel used for paving to form a smooth, permanent surface. It does not mean **"oil and chip"**.

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

"BOARD OF APPEALS" means the Zoning Board of Appeals of the City.

"BUFFER STRIP" means an area of land undeveloped except for landscaping fences, etc., used to protect a use situated on one lot from the deleterious effects of the use on the adjacent lot.

"BUILDING" means any covered structure permanently affixed to land and designed or used to shelter persons or chattels.

"BUILDING OR STRUCTURE HEIGHT" means the vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

"BUILDING LINE" means the line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

"BULK" means any one or any combination of the following structural or site design characteristics:

- (A) Size or height of structure;
- (B) location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) lot area;
- (D) yards or setbacks.

"CENTERLINE" means:

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

"CERTIFICATE OF ZONING COMPLIANCE, FINAL" means a permit issued by the Administrator indicating that a lot or newly completed structure or use complied with all pertinent requirements of this Code and therefore, may be occupied or used.

"CERTIFICATE OF ZONING COMPLIANCE, INITIAL" means a permit issued by the Administrator indicating a proposed lot, structure, or use is in conformity with the requirements of this Code.

"CHURCH OR BUILDING FOR RELIGIOUS WORSHIP" means a building used by a corporate religious institution that people regularly attend to participate in religious services, meetings and other customary, integrally related religious activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

"CITY" means either the territory or the local government of the City.

"CLINIC" means a place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons, but who are not provided with room or board nor kept overnight on the premises.

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

"COMMERCIAL LIVESTOCK" whose sole purpose is for sale and resale as opposed to inventoried animals.

"COMMERCIAL USE/ESTABLISHMENT" means any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

"COMMUNITY INTEGRATED LIVING ARRANGEMENT" means a group living facility authorized and licensed by the State of Illinois and operated in a single family dwelling in strict conformity with the requirements of the Illinois Administrative Code with no more than **six (6)** full time residents plus a paid professional staff person.

"CONDOMINIUM" means the absolute ownership of an apartment or a dwelling unit by a legal description of the airspace which the unit actually occupies, plus an undivided interest in the ownership of the common elements, which are owned jointly with the other condominium units. Condominiums shall be classified as such with a minimum of **four (4) apartments** or dwelling units in **one (1)** or more buildings complying with the zoning regulations for the district in which the site is located. **(Ord. No. 960; 09-07-99)**

"CONFORMING" means in compliance with the applicable provisions of this Code.

"CONVENIENCE/GASOLINE SERVICE STATION" means a building or premises or portion thereof used for retail sales of gasoline, oil and accessories of motor vehicles, and general convenience service goods to include the retail sale of alcoholic beverages, not for consumption on the premises where it is sold.

"CORRECTIVE ACTION ORDER" means a legally binding order issued by the Administrator in accordance with the procedures set forth herein to effect compliance with this Code.

"DAY CARE CENTER" means an establishment for the part-time care and/or instruction at any time of day of **four (4)** or more unrelated children of pre-elementary or elementary school age.

"DETACHED", as applied to buildings, means surrounded by yards on the same lot as the building.

"DEVELOP" means to erect any structure or to install any improvements on a tract of land or to undertake any activity (such as grading) in preparation therefore.

"DIMENSIONS" refers to both lot depth and lot width.

"DISTRICT, ZONING" means a portion of the territory of the City wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

"DRIVEWAY" means a minor way commonly providing vehicular access to a garage or off-street parking area.

"DUPLEX" means a dwelling containing **two (2)** dwelling units which may be occupied by **two (2)** "unrelated" families. **(Ord. No. 893; 08-05-97)**

"DWELLING" means a building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, or other accommodations for the transient public.

"DWELLING, MULTIPLE-FAMILY" means a building or portion thereof containing **three (3)** or more dwelling units.

"DWELLING, SINGLE-FAMILY" means a dwelling containing **one (1) dwelling** unit and intended for the occupancy of **one (1) family**.

"DWELLING, TWO-FAMILY" means a dwelling containing **two (2) dwelling units**.

"DWELLING UNIT" means **two (2)** or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes a bathroom and a kitchen.

"DWELLING UNIT, TWO-FAMILY" means a dwelling containing **two (2)** dwelling units which shall be occupied by **two (2) families** from the same "extended family". **(Ord. No. 893; 08-05-97)**

"EASEMENT" means a right to use another person's real property for certain limited purposes.

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

"ENLARGE" means to increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

"ERECT" means to build or construct.

"ESSENTIAL GOVERNMENTAL OR PUBLIC UTILITY SERVICES". The erection, construction, alteration, or maintenance by public utilities or municipal departments, or underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including buildings.

"ESTABLISHMENT" means either of the following:

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

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

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

"EXISTING" means actually constructed or in operation on the effective date of this Code.

"EXTENDED FAMILY" means a group of relatives by blood, marriage, or adoption. **(Ord. No. 893; 08-05-97)**

"FAMILY" means:

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

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

(C) A group of not more than **three (3)** unrelated persons doing their own cooking and living together on the premises as a separate housekeeping unit pursuant to a mutual housekeeping agreement (not including a group occupying a boarding or rooming house, club, fraternity, or hotel). **(Ord. No. 1009; 04-03-01)**

"FLOOD AREA" means all land subject to periodic inundation by water or defined by a soils analysis or other appropriate means and includes the overflow of natural waterways, interior ponding and flooding of a resulting from drainage run-off.

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

"FREIGHT TERMINAL" as applied to motor carriers subject to the **Illinois Compiled Statutes Chapter 625, Section 5/18A-100**, a station for commercial motor vehicles wherein said motor trucks are stored, repaired or parked.

"FRONTAGE" means the lineal extent of the front (street side) of a lot or establishment.

"GARAGE, PRIVATE" means a garage for **four (4) or less** passenger motor vehicles without provision for repairing or servicing such vehicle(s) for profit.

"GREENHOUSE". (See "Nursery")

"GROUP COMMUNITY RESIDENCE" means a single dwelling unit occupied on a relatively permanent basis in a family-like environment by a group of no more than **twelve (12)** unrelated persons with disabilities, illnesses or injuries, plus paid professional support staff provided by a sponsoring agency, either living with the residents on a **twenty-four (24) hour** basis, or present whenever residents with disabilities, illnesses or injuries or present at the dwelling and complies with the zoning regulations for the district in which the site is located. Group community residences are anticipated to comply with regulations of R-3, and may be permitted in R-2 with the grant of a special use permit. **(Ord. No. 960; 09-07-99)**

"HEREAFTER" means any time after the effective date of this Code.

"HOME OCCUPATION" means any business, profession, or occupation conducted for gain entirely within a dwelling or on residential premises in conformity with the provisions of this Code.

"INTERSECTION" means the point at which **two (2)** or more public rights-of-way (generally, streets) meet.

"JUNK YARD" means a tract of land, including any accessory structures thereon, that is used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or

scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition (or parts thereof), and metals, glass, paper, plastic, rags, and rubber tires. A rebuttable presumption as to the existence of a junk yard shall arise with regard to any lot upon which **three (3)** or more inoperable vehicles are located. An "inoperable vehicle" for purposes of this provision shall be defined by **Chapter 24** of the Motor Vehicle Code herein. A "junk yard" includes an automobile wrecking yard.

"KENNEL". Any structure or premises or portion thereof on which more than **three (3)** dogs, cats, or other household domestic animals, over **four (4) months** of age, are kept or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

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

"LOADING SPACE". An off-street space or berth on the same lot with a building, or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

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

"LOT, CORNER" means a lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

"LOT, THROUGH" means a lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets.

"LOT AREA" means the area of a horizontal plane bounded by the front, side, and rear lines of a lot.

"LOT COVERAGE" means the portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

"LOT DEPTH" means the average horizontal distance between the front lot line and the rear lot line of a lot.

"LOT LINE, FRONT" means the lot line abutting the street.

"LOT LINE, REAR" means an interior lot line which is most distant from and most nearly parallel to the front lot line.

"LOT LINE, SIDE". Any lot line other than front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. (A side lot line separating a lot from another lot or lots is called an interior side lot line.)

"LOT OF RECORD" means an area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

"LOT SIZE REQUIREMENTS" refers to the lot area, width and depth requirements of the applicable district.

"LOT WIDTH" means the mean horizontal width of a lot measured at right angles to the side lot lines at the building line.

"MAINTENANCE" means the routine upkeep of a structure, premises or equipment including the replacement or modification of structural components to the extent necessary to keep said structure in sound condition.

"MANUFACTURED (MOBILE) HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location at which it is intended to be a

permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term "manufactured home" shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "National Manufactured Housing Construction and Safety Standards Act of 1974". Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a "manufactured home", but shall be an "immobilized manufactured home". A manufactured home should not be confused with a "camping trailer" or "recreational vehicle". **(See 210 ILCS 115/2.10)**

"MANUFACTURED HOME, DEPENDENT" means a manufactured home which does not have a toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.3)**

"MANUFACTURED HOME, DOUBLE-WIDE" consists of **two (2) mobile units** joined at the site into a single home, but kept on their separate chassis for repeated transportation to a site.

"MANUFACTURED HOME, IMMOBILIZED" means any manufactured home resting on a permanent foundation with wheels, tongue, and hitch permanently removed. The City Council establishes the following criteria to complete the immobilization of a manufactured home:

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

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

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

"MANUFACTURED HOME, INDEPENDENT" means a manufactured home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.4)**

"MANUFACTURED HOME LOT" means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

"MANUFACTURED HOME PAD" means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

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

"MANUFACTURED HOME SALES AREA" means a parcel of land used for the display, sale and repair of new or used manufactured homes.

"MANUFACTURED HOME SPACE" means a portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home**.

"MANUFACTURED HOME STAND" means the part of a manufactured home space beneath the manufactured home that includes the concrete slab on which the home is placed and to which it is anchored.

"MANUFACTURED HOUSING UNIT" includes all forms of housing units listed in this Section and as regulated in this Code.

"MINI-WAREHOUSES" means a building, or part of one, for the storage of goods, merchandise, etc. for rent to individuals or businesses for a monthly fee.

"MOBILE OR PORTABLE MARQUEE" means a term used to describe any sign designed to be moved from place to place, including, but not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard, or canvas signs wrapped around supporting poles.

"MODULAR HOME" means a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **one thousand two hundred (1,200) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

"MOTEL OR MOTOR HOTEL" means a series of attached, semi-attached or detached sleeping or living units for the accommodation of transient guests and not customarily including individual cooking or kitchen facilities; said units having convenient access to off-street parking spaces for the exclusive use of the guests or occupants.

"NONCONFORMING": As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code, but (2) not in compliance with the applicable provisions thereof.

"NUISANCE" means any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life. **(See Chapter 25 of the Revised Code)**

"NURSERY" means a tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

"NURSING HOME" means a building used as a medical care facility for persons who need nursing care, assistance with activities of daily living, memory care and medical service, but do not require intensive hospital care.

"OFFICE" means any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

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

"OUTPATIENT SERVICES FACILITY" allows for Outpatient Services and sleep disorder studies including overnight stays for patients and hospital staff.

"OVERLAY DISTRICT" means a zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, flooding, etc.

"PARABOLIC OR DISH-TYPE ANTENNA" means any concave, circular or dish-shaped device designed for receiving communications or television signals.

"PARKING AREA/LOT, OFF-STREET" means land that is improved in accordance with this Code and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking lot", depending on the circumstances of its use, may be either a principal use or an accessory use.

"PARKING LOT – COMMERCIAL" means land that is improved in accordance with this Code and shall be limited to automobiles and trucks **one (1) ton** and under.

"PARKING SPACE, OFF-STREET" means an area at least **twenty (20) feet** long and **ten (10) feet** wide within an off-street parking area or garage, used for the storage of one passenger motor vehicle.

"PERMITTED USE" means any use which is or may be lawfully established in a particular districts), provided it conforms with all the requirements applicable to such districts).

"PERSON" means any individual, firm, association, organization, or corporate body.

"PLANNED DEVELOPMENT PROJECT" means a residential or commercial development on a parcel of land in single ownership and consisting of **two (2)** or more buildings having any yard, court, parking or loading space in common.

"PLAT" any map, plan or chart of a city, town, section or subdivision, indicating the location and boundaries of the individual properties, public improvements, utility locations, and which meets the requirements of this Code.

"PREFABRICATED HOUSING" means a partially constructed factory fabricated building unit which will be substantially assembled on-site, utilizing pre-manufactured component parts. This term shall not be construed to include "mobile homes", "immobilized mobile homes" or "modular homes".

"PREMISES" means a lot and all the structures and uses thereon.

"PRINCIPAL BUILDING/STRUCTURE/USE" means the main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

"PROFESSIONAL OFFICE" means an office (other than a service office and other than an office for care and/or treatment of or medical attention to, animals as distinguished from persons) for the practice of professions, such as the offices of physicians, dentists, attorneys-at-law, architects, or engineers qualified to perform services of a professional nature, or the offices of a governmental agency; and where there is no storage, sale or display of merchandise on the premises.

"PROPERTY LINE". See "Lot Line".

"PUBLIC BUILDINGS" means any building owned, operated, constructed or maintained at the expense of the public or a building which provides a service or function necessary for the general health, welfare, and convenience of the public.

"PUBLIC OPEN SPACE" means any publicly-owned open area, including, but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways, and streets.

"PUBLIC UTILITIES" means utilities which are either government-owned or owned by an established firm serving a wide geographical area and/or a substantial number of persons.

"QUICK SHOP" means any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multi-family complex, mobile home park or similar development.

"RECONSTRUCT", as applied to nonconforming structures, means to rebuild after damage or destruction.

"RECREATIONAL PARK" is an area established by the City or private enterprise wherein organized leisure time activities, often requiring equipment and taking place on particular sites or fields that may be either indoor or outdoor locations.

"RECREATIONAL VEHICLE" is a term encompassing any type of vehicle used primarily for pleasure, such as travel trailers, motor homes, boats, snowmobiles, etc.

"REFUSE" means garbage (food wastes) and trash, but not sewage or industrial wastes.

"RELOCATE" means to move to another portion of a lot or to a different lot.

"REPAIR" means to restore to sound condition, but not to reconstruct.

"RESTRICTIVE" means tending to keep within prescribed limits.

"RETAIL" refers to the sale of goods or services directly to the consumer rather than to another business.

"RIGHT-OF-WAY, PUBLIC" means a strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys.

"ROOF LINE" means a horizontal line parallel to the average ground level of a building along the front thereof, which line delineates the highest point of a flat roof; or where the flat surface area of a gable, hip, mansard, or gambrel roof is in view from the ground level, the line of demarcation between the flat surface and the vertically structured facade; or the line along the front of a building delineating the roof line between eaves and ridge for gable, hip, and gambrel roofs.

"SCREENING" means trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

"SEMI-FINISHED MATERIALS" means materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state, but are readily usable by light industry for assembly or manufacture into consumer goods.

"SENIOR ASSISTED LIVING FACILITY" means a congregate residence facility for **twelve (12)** or more elderly (over **fifty-five (55) years** of age) persons, regardless of legal relationship, who need limited assistance with daily activities. A limited number of support services such as meals, laundry, housekeeping, transportation, social/recreational, hairdressing, etc. may be provided or associated with the senior assisted living facility. Units may be attached or detached, single or double occupancy, and may include limited or full kitchen facilities. Full time medical or nursing care may be provided by the facility, subject to the licensing standards of the State of Illinois. **(Ord. No. 1040; 01-07-03)**

"SERVICE BUILDING" means a structure within a mobile home park or travel trailer park that contains toilet facilities, clothes washers and dryers and in some instances, a convenience store.

"SERVICE STATION" means a building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

"SERVICE USE/ESTABLISHMENT" means any use or establishment where services are provided for remuneration either to individuals or to other firms.

"SETBACK" means the horizontal distance from the lot line in question to the side of the structure facing that lot line or to the edge of the area of operation of the principal use (in the case of a use which does not involve a structure).

"SEWAGE TREATMENT PLANT, PRIVATE" shall mean any properly constructed disposal system intended for the treatment of wastewaters from more than **one (1) residence** and/or building unit.

"SIGN" means any object, device, display, or structure or part thereof used to advertise, identify, display, or attract attention to a person, establishment, product, service, or event by any means including words, letters, figures, designs, symbols, fixtures, colors, illuminations, etc. The term "sign" includes, but is not limited to, every projecting sign, freestanding sign, awning, canopy, marquee sign; changeable copy sign, illuminated sign; moving sign, temporary sign; portable sign; or other display whether affixed to a building or erected elsewhere on the premises. The term "sign" excludes features of a building which are an integral part of the building's design (e.g., the "castle-look" of a White Castle restaurant).

"SIGN, CANOPY/MARQUEE" means any sign affixed to, painted on, or suspended from an awning, canopy, marquee, or similar overhang.

"SIGN, FLUSH-MOUNTED" means any sign attached to or erected against a wall of a structure with the exposed face of the sign in a plane approximately parallel to the plane of the wall and not projecting more than **eighteen (18) inches**. A flush-mounted sign displays only messages associated with the building to which said sign is attached.

"SIGN, FREESTANDING" means any sign supported by one or more uprights, poles, or braces placed in or upon the ground; or any sign supported by any structure erected primarily for the display and support of the sign; provided that a freestanding sign displays only messages associated with the structure to which it is attached.

"SIGN, PROJECTING" means any sign which is suspended from or supported by a wall, awning, canopy, marquee, etc., and which is approximately perpendicular thereto. A projecting sign displays only messages associated with the structure to which it is attached.

"SIGN AREA" means the entire area within a single, continuous perimeter enclosing the extreme limits of the message and the background thereof, calculated in accordance with the provisions of this Code.

"SIGN AREA ALLOWANCE" means the maximum total sign area of all signs that an establishment is permitted to display.

"SKIRTING" means the covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

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

"SPECIAL-USE PERMIT" means a permit issued in accordance with the provisions of this Code to regulate development of a special use.

"STOP ORDER" means a type of corrective action order used by the Administrator to halt work in progress that is in violation of this Code.

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

"STREET, PRIVATE" means any street providing access to abutting property that is not maintained by and dedicated to the City or other public entity.

"STRINGENT" means binding and/or exacting.

"STRUCTURE" means anything constructed or erected on the ground, or attached to something having a fixed location on the ground. All buildings are structures, but not all structures are buildings.

"TOPOGRAPHY" means the relief features or surface configuration of an area.

"TOWNHOUSE" means a single family dwelling unit constructed in a group of **three (3)** or more attached units in which each unit extends from foundation to roof with open space on at least **two (2) sides**.

"UNIPLEX" means **two (2)** single family dwellings contained within a single structure sharing a common wall, but situated on separate lots that are owned and possessed by separate owners with a recorded party wall agreement. **(Ord. No. 1108; 02-21-06)**

"USE" means the purpose or activity for which the land or a structure thereon is designed, arranged, intended, occupied, or maintained.

"USE VARIANCE" means a type of amendment (not a variance) that allows a use in a district where said use would not be allowed under existing provisions of this Code.

"UTILITY SUBSTATION" means a secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

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

"VARIANCE" means a relaxation of the strict application of the lot size, setbacks, or other bulk requirements applicable to a particular lot or structure.

"WHOLESALE" refers to the sale of goods or services by one business to another business.

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

"YARD" means open space that is unobstructed, except as specifically permitted in this Code and that is located on the same lot as the principal building.

"YARD, FRONT" means a yard which is bounded by the side lot lines, front lot line, and the building line.

"YARD, REAR" means a yard which is bounded by side lot lines, rear lot line and rear building line.

"YARD, SIDE" means a yard which is bounded by the rear yard line, front yard line, side yard line, and side building line.

"YARD LINE" means a line in a lot that is generally parallel to the lot line along which the yard in question extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

"ZONING ADMINISTRATOR"; "ZONING OFFICIAL" OR "ZONING OFFICER" means the Zoning Administrator of the City or his authorized representative.

"ZONING MAP" means the map(s) and any amendments thereto designating zoning districts, and incorporated into this Code by reference.

ARTICLE III

GENERAL ZONING REGULATIONS

DIVISION I - DISTRICT REQUIREMENTS

40-3-1 **ESTABLISHMENT OF DISTRICTS.** In order to implement the regulatory scheme of this Code so as to achieve the objectives enumerated in **Section 40-1-1**, the City is hereby divided into the following Zoning Districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Agricultural	A	20 Acres
Single-Family Residential	R-1	5 Acres
General Residential	R-2	2 Acres
Multiple-Family Residential	R-3	2 Acres
Manufactured Home	MH-1	5 Acres
Downtown Commercial	C-1	2 Acres
Highway Commercial	C-2	2 Acres
Rural Commercial	C-3	3 Acres
Industrial	I	5 Acres
Flood Plain Overlay	O-FP	None

* The "minimum area" requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the acreage of numerous noncontiguous parcels, when aggregated, happens to equal or exceed the minimum area indicated above.

40-3-2 **ZONING MAP AND DISTRICT BOUNDARIES.** The boundaries of the listed zoning districts are hereby established as shown on the Official Zoning Map of the City. This map, including all notations and other information thereof is hereby made a part of this Code by reference. The official Zoning Map shall be kept on file in the Administrator's office.

40-3-3 **ANNUAL PUBLICATION.** In accordance with State Law, if any changes are made in the zoning districts or regulations during a calendar year, the Zoning Administrator shall publish the revised official zoning map of the City not later than March 31st of the following year. (See 65 ILCS Sec. 5/11-13-19)

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

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

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

- (3) Railroad tracks right-of-way line of such tracks
- (4) Stream center of such stream
- (5) Section, fraction or survey lines such lines

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

40-3-4 ANNEXED TERRITORY. Any territory hereafter annexed to the City shall automatically be in the R-1, Single-Family Residence District until duly changed by an amendment to this Code; except that the City Council, with the advice of the Zoning Board Of Appeals may annex any territory as any other zoning district or districts herein established if all legal requirements for zoning the property at the time of the annexation and the requirements for amending this Code by the extension of the zoning district provisions are met.

40-3-5 GENERAL PROHIBITION. Hereafter, within the zoning jurisdiction of Breese, it shall be unlawful to:

- (A) Erect, use, occupy, enlarge, alter, relocate, or reconstruct any structure or part thereof;*
- (B) to create any lot;* or
- (C) to use, occupy, or develop any lot or part thereof, except in conformity with the provision of this Code.

40-3-6 UNLISTED USES PROHIBITED. Whenever any use is not specifically listed as "permitted" or "special" within a particular zoning district, such use shall be deemed prohibited in that district. However, if the Council, following consultation with the Administrator, finds that the unlisted use is similar to and compatible with the listed uses, they may allow such use by amending this Code in accordance with **Section 40-11-31 et seq.** The Council's decision shall become a permanent public record, and any unlisted use that they approve shall thereafter have the same status as listed uses.

40-3-7 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise elsewhere in this Code, every lot must meet the minimum area, minimum dimensions, and minimum setbacks requirements of the district in which it is located **independently;** that is, without counting any portion of an abutting lot.

40-3-8 ACCESS REQUIRED. No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to a public or private street.

40-3-9 FRONT SETBACKS - CORNER/THROUGH LOTS. Every "non-residential" lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage. **(See Exhibit A)** All

residential lots with multiple frontages shall meet the front setback requirements of the district in which it is located for the "principal building" (home and attached garage) and "accessory buildings" (shed, unattached garage). All other structures shall meet a front side yard setback requirement of **fifteen (15) feet** for the specific frontage not associated with the street address. **(Ord. No. 894; 08-05-97)**

40-3-10 FRONT SETBACKS IN CERTAIN BUILT-UP AREAS. Except as specifically provided otherwise, in all residential zoning districts where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block shall be the average of the existing front setbacks; provided, however, that in any built-up area, no front setback greater than **fifty (50) feet** shall be required.

40-3-11 INTRUSIONS INTO YARDS. To the extent indicated below, the following features of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<u>FEATURES</u>	<u>MAXIMUM INTRUSION</u>
Cornices, chimneys, planters or similar architectural features	2 feet
Fire escapes	4 feet
Patios uncovered at ground level	3 feet
Porches, if unenclosed and at ground level	6 feet
Balconies and decks	4 feet
Canopies, roof overhangs	4 feet

40-3-12 EXCEPTIONS TO HEIGHT LIMITS.

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

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by intersecting street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no natural or man-made obstruction shall intrude into the air space that is between **two (2) feet** and **ten (10) feet** above the level of the adjacent street. **(Exhibit B, Figure 1, in back of book)**

40-3-13 SEWERS, SEPTIC TANKS. In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the public sanitary sewerage system is reasonably accessible (that is, when the distance from the property in question to the nearest public sewer with available

capacity does not exceed **one hundred fifty (150) feet**), all sewage shall be discharged into such system whether or not a private sewerage system already exists or is more convenient.

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

- (1) Illinois Private Sewage Disposal Licensing Act, **Illinois Compiled Statutes, Chapter 225; Sections 225/1 through 225/23**, as amended from time to time;
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, as amended from time to time;
- (3) Pertinent, current regulations issued by the **Illinois Environmental Protection Agency**; and
- (4) Applicable codes and regulations of the City, particularly the **Subdivision Regulations**.

The Administrator shall not issue any Initial Certificate of Zoning Compliance unless, following consultation with the Municipal Engineer, he is satisfied that these requirements will be met. **(Also, see Chapter 38 entitled "Utilities" of Revised Code)**

40-3-14 **ACCESSORY USES.**

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

- (1) meets the definition of "**accessory use**" found in **Section 40-2-2**;
- (2) is accessory to a principal structure or use that is allowed in a particular zoning district as a permitted or special use; and
- (3) is in compliance with restrictions set forth in **Section 40-3-15**.

(B) If an accessory structure is attached to a principal structure, it shall be considered part of such structure.

40-3-15 **ACCESSORY USE RESTRICTIONS.**

(A) **Height.** No accessory use shall be higher than:

- (1) **Twenty (20) feet** in any residential district; or
- (2) **twenty-five (25) feet** in any other Zoning District except the Agricultural District where, due to the special needs of farmers, there shall be no height limit on accessory structures.

(B) **Setbacks.** No accessory use in any zoning district shall be located in any part of any front yard that is required because of the setback regulations of such district; provided that in any residential district, an accessory use may be located as close as **five (5) feet** to any side or rear lot line.

(C) **Yard Coverage.** In any residential district, accessory uses shall not cover more than **thirty percent (30%)** of a required rear yard.

(D) **Use As Dwelling.** Use of any accessory structure as a dwelling is strictly prohibited throughout the zoning jurisdiction of Breese.

(Ord. No. 1110; 04-18-06)

40-3-16 **ACCESSORY BUILDINGS.** In any residential district there shall be no more than **two (2)** Accessory Buildings located on a single lot.

DIVISION II - SINGLE SIDE YARD

40-3-17 **SINGLE SIDE YARD - SPECIAL - USE PERMIT.** Upon the application for and the granting of a special-use permit by the Zoning Board of Appeals, a person may occupy a structure in a Multi-Family District that has a **zero lot line** for one side yard. The following regulations shall apply:

(A) **Front Yard.** There shall be a front yard of not less than **twenty-five (25) feet** in depth.

(B) **Side Yard.** On a corner lot, there shall be a side yard of not less than **twenty-five (25) feet** on the side of the building nearest the street. No part of any building shall project over onto any neighboring lot unless an easement permitting the same has been duly executed and recorded by the owner of the neighboring lot. **Two (2)** buildings on neighboring lots may be built touching each other with party walls or adjacent walls, provided that such walls shall comply with all applicable provisions of the **Building Code** relating to walls between condominiums and apartments. No **two (2) buildings** shall be built touching each other unless the owner(s) of each of the **two (2)** lots involved sign an agreement. **(See Revised Code; Ch. 6)**

(C) **Lot Coverage.** Not more than **thirty-five percent (35%)** of any lot shall be occupied by buildings of any kind.

40-3-18 - 40-3-22 **RESERVED.**

DIVISION III - PLANNED DEVELOPMENTS

40-3-23 **PLANNED DEVELOPMENTS.** As used in this Code, the term "planned development" or "PD" means a development wherein, in accordance with an approved development plan:

- (A) common open space is reserved;
- (B) various housing types and other structures and uses may be mixed and/or;
- (C) overall average density does not exceed the usual zoning district limit.

40-3-24 **PURPOSE.** This Code allows for the development of APDs^o in various districts of the City in order to assist in achieving the following objectives:

- (A) To permit development of a wide variety of interrelated housing types and other structures and uses in a comprehensively planned project providing a high level of urban amenities;
- (B) To insure the provision of usable common open space, and to spur construction of recreational facilities in new developments;
- (C) To encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
- (D) To preserve the natural topography, existing trees and other vegetation, and scenic features on development sites; and
- (E) To facilitate the economical installation of adequate streets, pedestrian and cyclist ways, sewers, and other public utilities.

40-3-25 **OBJECTIVES.** This Section authorizes development of Planned Developments and establishes procedures in order to achieve the objectives enumerated in **Section 40-1-1** and the following additional objectives:

- (A) to provide a regulatory mechanism whereby the City can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the issuance of the necessary zoning and subdivision permits;
- (B) to permit development of a wide variety of housing types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the natural topography, scenic features, mature trees and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different housing types and other structures;
- (E) to ensure the provision of usable, common, open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

40-3-26 **COMPLIANCE WITH ORDINANCES GENERALLY REQUIRED.** Except as specifically provided otherwise in this Section, planned developments--including all structures and uses therein--shall, at a minimum, be built in conformity with all applicable codes and ordinances, including the Zoning Code and the Subdivision Code.

40-3-27 **DISTRICTS WHERE ALLOWED.** Planned Developments may be built in any Zoning District, but only upon the issuance of a special-use permit by the City Council. Condominium developments and/or conversions are permitted in this zoning district. **(See Sec. 40-11-17)**

40-3-28 **PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS.** The Planned Development concept is intended to afford both the developer and the City considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, Planned Developments may deviate from generally applicable Code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

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

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

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

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

40-3-29 **PROCEDURES FOR PLANNED DEVELOPMENTS.** Every applicant for Planned Development approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A) Filing development plan with the Zoning Administrator;
- (B) Review of plans by Comprehensive Plan Committee;
- (C) Provision by the developer of adequate assurance for the completion of required improvements as per the development plan;
- (D) Public hearing by the Zoning Board of Appeals as per the requirements of Section **40-11-17 - Special Use Permits**;
- (E) Recommendation of the Zoning Board of Appeals regarding approval/rejection of the development plan.
- (F) Approval/rejection by the City Council; and
- (G) Recording of development plat with the County Recorder of Deeds.

40-3-30 **APPLICATION; INFORMATION REQUIRED.** Every applicant for approval of a development plan shall submit to the Administrator, in narrative and/or graphic form, the items of information listed below:

WRITTEN DOCUMENTS.

- (A) Legal description of the total site proposed for development;
- (B) Names and addresses of all owners of property within or adjacent to the proposed Planned Development;
- (C) Statement of the planning objectives to be achieved by the PD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
- (D) Data indicating:
 - (1) total number and type of proposed dwelling units;
 - (2) gross and net acreage of parcel;
 - (3) acreage of gross and usable open space; and
 - (4) area of any commercial uses.
- (E) Schematic design presentation indicating the architectural character of all proposed structures and improvements, except single-family detached residences and their accessory structures (the drawings need not be the result of final architectural decisions and need not be in detail);
- (F) Enough information on land areas adjacent to the proposed "PD" to indicate the relationships between the proposed development and existing and proposed adjacent areas;
- (G) Any additional information required by the Zoning Board to evaluate the character and impact of the proposed "PD".
- (H) Appropriate seals of a licensed surveyor, engineer, or architect, where necessary.

40-3-31 **CRITERIA CONSIDERED.** The Zoning Board of Appeals shall compile a written report recommending acceptance or rejection of the development plan. In determining what their recommendation shall be, the Zoning Board of Appeals shall consider the following criteria:

- (A) The extent to which the proposed development is consistent with the purposes of this Code, and of all other applicable codes and ordinances;
- (B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including, but not limited to, the use, lot and building regulations of the district), and the apparent merits, if any, of said deviations;
- (C) Whether the proposed design of the "PD" makes adequate provisions for vehicular and pedestrian circulation, off-street parking and loading, separation of residential and commercial uses, open space, recreational facilities, preservation of natural features, and so forth;
- (D) The compatibility of the proposed "PD" with adjacent properties and surrounding area; and
- (E) Any other reasonable criteria that the Zoning Board of Appeals may devise.

40-3-32 **DECISION BY CITY COUNCIL.** The City Council shall not approve any "PD" Development Plan unless:

- (A) The developer has posted a performance bond or deposited funds in escrow in the amount the City Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and
- (B) The City Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and

(C) The proposed PD, as evidenced by the Development Plan, complies with all applicable codes and ordinances.

40-3-33 **CHANGES IN APPROVED PLANS.** No changes shall be made to any approved PD Development Plan, except as follows:

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

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

(C) No approved change shall have any effect until it is recorded with the County Recorder of Deeds as an amendment to the recorded copy of the Development Plan. **(See Section 40-11-31)**

40-3-34 **FAILURE TO BEGIN DEVELOPMENT.** If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the Development Plan shall lapse upon written notice to the applicant from the Zoning Administrator and shall be of no further effect. However, in his discretion and for good cause, the Zoning Administrator may extend for a reasonable time the period for the beginning of construction. If a final Development Plan lapses as per this Section, the following shall be applicable:

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

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

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

40-3-35 **MUNICIPAL EXEMPTION.** In conjunction with any existing or proposed development, the City shall be exempt from all of the provisions of this Section.

ARTICLE IV

REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I - AGRICULTURAL DISTRICT

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

Agricultural Exemption. The provisions of this Code shall not be exercised so as to impose regulations with respect to land or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or intended to be used for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes shall be required to conform to building setback lines. Permits issued for the erection or extension of buildings or structures used or to be used for agricultural purposes shall be issued free of any charge. In the event that the land ceases to be used solely for agricultural purposes, then and only then shall the provisions of this Code apply.

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

- | | | |
|-----|--|----------|
| (A) | Minimum Lot Area: | 2 Acres |
| | (if housing domestic farm animals but no commercial livestock) | 10 Acres |
| (B) | Minimum Lot Width at the established building line: | 150 feet |
| (C) | Minimum Lot Depth: | 200 feet |
| (D) | Minimum Setbacks: | |
| | (1) From front lot line: | 50 feet |
| | (2) Total for both side yard lines: | 25 feet |
| | (3) From either side lot line: | 10 feet |
| | (4) From rear lot line: | 50 feet |
| (E) | Maximum Building Height: | 35 feet |
- (Does not apply to accessory agricultural structures.)

40-4-3 ONE DWELLING ON ONE LOT. In the "A" District, only one dwelling shall be erected on any lot.

40-4-4 PERMITTED USES. Agriculture, including all uses commonly classified as such, provided the requirements of **Section 40-6-2** are met.

- Schools.
- Cemeteries.
- Government uses of Breese.

Nurseries, greenhouses, temporary produce stands.
Parks, playgrounds.
Single-family dwellings.
Accessory uses in accordance with **Section 40-3-14**.

40-4-5 **SPECIAL USES.** The following uses may be allowed by special-use permit in accordance with **Section 40-11-17, et seq.** of this Code in the "**A**" - **Agricultural District**:

Agricultural implement sales.
Amusement facilities, such as go-cart tracks, miniature golf courses, etc.
Animal hospitals.
Blacksmith and welding shops.
Churches and other places of formal worship.
Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.
Golf courses, regulation size.
Government uses other than those of Breese.
Home occupations.
Hospitals, nursing homes, sanitariums.
Institutions, such as convents, retreat houses, seminaries, etc.
Kennels, commercial.
Stables, commercial.
Utility substations.
Junk/salvage yards. (**See Section 40-6-7**)

DIVISION II

"R-1" - SINGLE-FAMILY RESIDENTIAL DISTRICTS

40-4-6 **"R-1" - SINGLE-FAMILY RESIDENTIAL DISTRICT.** In the "R-1", Single-Family Residential District encompasses those areas which are primarily developed with or planned for conventionally constructed single-family dwellings. The following types of residences: mobile homes, apartments, condominiums, are strictly prohibited in this district.

40-4-7 **SPECIAL RESTRICTIONS.**

(A) **One Principal Building Per Lot.** In this District, only **one (1)** principal building shall be erected on any lot.

(B) **Mobile Homes Prohibited.**

- (1) No manufactured home shall be brought into or placed anywhere in this District.
- (2) No manufactured home currently nonconforming in this District shall be immobilized unless permission is granted by the Zoning Board of Appeals.
- (3) Existing manufactured homes in this district may be replaced with a different manufactured home provided it is done within **one hundred twenty (120) days** of the removal of the original manufactured home. Said replacement manufactured home shall not be more than **ten (10) years old.**
- (4) This amendment shall not reclassify illegal manufactured homes to nonconforming use.

40-4-8 **LOT AND BUILDING REQUIREMENTS.** (Applies to principal building.)

- | | | |
|-----|--|----------------|
| (A) | Minimum Lot Area: | 11,000 sq. ft. |
| (B) | Minimum Lot Width at the established building line: | 75 feet |
| (C) | Minimum Lot Depth: | 100 feet |
| (D) | Minimum Setbacks: | |
| | (1) From front lot line: | 25 feet |
| | (2) From either side lot line: | 8 feet |
| | (3) From rear lot line: | 25 feet |
| | (4) From rear lot line on corner lots: | 20 feet |
| (E) | Maximum Building Height: | 35 feet |
| (F) | Minimum Off-street Parking <u>Per Dwelling Unit:</u> | 2 spaces |

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

A Community Integrated Living Arrangement authorized and licensed by the State of Illinois.
Government uses of Breese.

Recreational parks.

Single-family dwellings, conventionally constructed.

Accessory uses in accordance with **Section 40-3-14.**

40-4-10 SPECIAL USES.

Bed and Breakfast Inn. **(Ord. No. 1173; 08-05-08)**

Cemeteries.

Churches and related religious facilities.

Duplex. **(Ord. No. 1017; 10-02-01 as described in footnote)**

Dwelling - Two Family.

Government uses other than those of Breese.

Home occupations, but only in conformity with the requirements of **Section 40-6-5. (Ord. No. 1349; 08-16-16)**

Modular Homes. **(See Section 40-2-2)**

Schools.

Townhouse - Two-Family. **(Ord. No. 1017; 10-02-01 as described in footnote)**

[NOTE: A Reconstruction Incentive Ordinance (RIO) is hereby established to permit construction of a two-family townhouse or duplex structure in a Single Family Residential District when doing so replaces an uninhabitable dilapidated or dangerous existing structure, or an existing mobile home in any condition. This special use in a Single Residential District will be granted by permit only, and then only upon recommendation of the Zoning Board of Appeals and Breese City Council approval. The determination of a structure as uninhabitable, dilapidated or dangerous is granted to the Zoning Board of Appeals in its sole discretion. The issuance of a permit shall be determined by application of the factors specified in Section 40-11-20. (Ord. No. 1017; 10-02-10)]

Utility substations.

Schools.

Churches and related religious facilities

Senior Assisted Living Facilities. **(Ord. No. 1284; 06-18-13)**

Group Community Residence.

(C)	Minimum Lot Depth:	100 feet
(D)	Minimum Setbacks:	
	(1) From front lot line:	25 feet
	(2) From any side lot line:	8 feet
	(Note: See Section 40-3-16)	
	(3) From rear lot line:	25 feet
(E)	Maximum Building Height:	35 feet
(F)	Minimum Off-street Parking <u>Per Dwelling Unit</u> :	3 spaces

40-4-20 LOT AND BUILDING REQUIREMENTS-Uniplex. Every Uniplex constructed in the "R-3" District shall conform to the requirements indicated below ("Lot" indicates the two lots on which the entire, two unit structure is located. "Unit" indicates each separately owned residence):

- | | | |
|-----|---|--|
| (A) | Minimum Lot Size | |
| | (1) Minimum Lot Area: | 10,000 square feet per lot(5,000 square feet per unit.) |
| | (2) Minimum Lot Width: | 100 feet per lot a at established building line (50 feet per unit) |
| | (3) Minimum Lot Depth: | 100 feet per lot at established building line (50 feet per unit) |
| (B) | Minimum Setbacks: | |
| | (1) From front lot line: | 25 feet |
| | (2) From any side lot line: | 8 feet |
| | (3) From Party Wall lot line: | 0 feet |
| | (3) From rear lot line: | 25 feet |
| (C) | Maximum Building Height: | 35 feet |
| (D) | Each Unit shall have separate utility connections including sanitary sewer and water. | |

(E) The party wall at the interior side of each unit of the Uniplex shall conform to all structural and fire codes and shall be at least **twelve (12) inches** below the earth grade in the crawl space. The Party Wall shall be of concrete block or poured concrete from **twelve (12) inches** below grade to bottom of sub-floor and shall otherwise conform in all respects with the Residential Building Codes of the City of Breese for "Townhomes".

(F) A site-plan and legal description shall be required and approved prior to the issuance of a building permit for a Uniplex.

(G) A Common Wall Maintenance Agreement (Party Wall Agreement) shall be approved by the City and recorded before a building permit for a Uniplex shall be issued. A copy of such recorded agreement shall be filed with the City Clerk.

(H) Unless a variance is granted by the City, each unit of a Uniplex structure shall have, at a minimum, a two car garage and a driveway with two car capacity.

(I) An "as built" survey shall be required prior to issuance of a Certificate of Occupancy.

40-4-21 PERMITTED USES.

Use permitted in the **"R-2" District.**

Condominiums shall be a permitted use under this Section.

Dwellings, multiple-family.

Uniplex.

40-4-22 SPECIAL USES.

Any use that may be allowed by special-use permit in the "R-2" District. **(See Section 40-3-16)**

Convenience shops (e.g. small drugstore, food store, laundromat)

Nursing homes.

Quick shops as defined in this Code.

Schools.

Utility substations.

DIVISION V - "MH-1" MANUFACTURED HOUSING DISTRICT

40-4-23 **"MH-1" - MANUFACTURED HOUSING DISTRICT.** The "MH-1", Manufactured Housing District is primarily intended to provide areas suitable for the placement of immobilized manufactured homes on individual lots and for the placement of modular homes. This district is intended to preserve all other residential districts for conventionally constructed dwellings.

All units shall meet the Housing and Urban Development Federal Code known as the "National Manufactured Home Construction and Safety Standards". All units shall be modern and in good condition, approved by the Zoning Administrator, when placed on said lot.

40-4-24 **LOT AND BUILDING REQUIREMENTS, GENERALLY.**

(A)	Minimum Lot Area:	8,000 sq. ft.
(B)	Minimum Lot Width at the established building line:	70 feet
(C)	Minimum Lot Depth:	100 feet
(D)	Minimum Setbacks:	
	(1) From front lot line:	25 feet
	(2) Total from both side yard lines:	15 feet
	(3) From either side lot line:	5 feet
	(4) From rear lot line:	20 feet
	(5) From side yard abutting street:	25 feet
(E)	Maximum Building Height:	20 feet
(F)	Minimum Off-street Parking <u>Per Dwelling Unit</u> :	2 spaces

40-4-25 **PERMITTED USES.**

Any use permitted in the "**R-2**" General Residential District. **(See Section 40-4-15)**
Manufactured homes on individual lots, provided said manufactured homes conform to all applicable requirements of this Section.

40-4-26 **SPECIAL USES.**

Any use that is a special use in the "R-2" General Residential District. **(See Section 40-4-16)**
Manufactured home parks in conformity with all applicable requirements of this Section.

40-4-27 **MANUFACTURED HOMES ON INDIVIDUAL LOTS.**

(A) **One Per Lot.** Not more than **one (1) manufactured home** shall be placed on any individual lot, nor shall any manufactured home be placed on any individual lot whereon another principal building exists.

(B) **Structural Support.** Every manufactured home brought into the City shall have adequate piers for structural support. Piers shall be a minimum of **twenty-four (24) inches** in diameter, **thirty (30) inches** below grade to prevent heaving from frost. Piers shall be constructed of a minimum of **3000 psi** (compression strength at **fourteen (14) days**) concrete. Placement of piers shall be determined by manufactured home manufacturer. Placement of piers

shall be denoted on site plan of Zoning permit application. Prior to pouring the structural piers, they shall be inspected by qualified City personnel.

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

40-4-28 MANUFACTURED HOME PARKS.

(A) **Minimum Park Size.** No manufactured home park shall be developed on a lot less than **five (5) acres** in size.

(B) **Minimum Lot Size, Setback Requirements.** Individual manufactured home spaces shall be considered as lots and shall meet the following requirements:

- (1) Minimum Lot Size: 8,000 square feet
- (2) Minimum Lot Depth: 100 feet
- (3) Minimum Lot Width: 80 feet
- (4) Minimum Setback Requirements:
 - (a) From front lot line 25 feet
 - (b) From rear lot line: 10 feet
 - (c) From side lot line: 5 feet on one side,
20 feet on the other side
- (5) Minimum distance to a building on an Adjacent lot: 25 feet

(C) **Minimum Dimension.** No manufactured home park shall be developed on any tract that is less than **two hundred fifty feet by three hundred feet (250' x 300')**.

(D) **Conformity with Other Sections of Code.** Individual manufactured homes in a manufactured home park shall meet other requirements listed in this Code and **Chapter 23** of the City Code.

40-4-29 - 40-4-45 RESERVED.

40-4-49 PERMITTED USES.

Churches and related religious facilities.
Clubs and lodges.
Commercial establishments, wholesale and retail.
Dwelling units, if located above the first story.
Government uses of Breese and other units.
Medical/Dental clinics.
Offices.
Service establishments.
Accessory uses in accordance with **Section 40-3-14** and **40-3-15**.
Utility substations.

40-4-50 SPECIAL USES. The following may be permitted as special uses in the "C-1" District in accordance with **Section 40-11-17**, to-wit:

Any use, such as drive-in restaurants, drive-in banks, service stations, etc., that offers goods or services directly to customers waiting in parked vehicles, or that sells food or beverages for consumption on the premises in parked motor vehicles.
Auto service stations.
Dwelling units, two-family or multiple-family.
Government uses other than those of the City.
Nursing homes.
Parks. **(Ord. No. 1123; 09-19-06)**
Schools.
Senior Assisted Living Facility. **(Ord. No. 1284; 06-18-13)**

40-4-51 - 40-4-55 RESERVED.

DIVISION VII - HIGHWAY COMMERCIAL

40-4-56 **"C-2" - HIGHWAY COMMERCIAL DISTRICT.** The "C-2" Commercial District encompasses those commercial areas adjacent to local highways where a wide range of goods and services are offered to the general public at retail or wholesale prices.

40-4-57 **SPECIAL RESTRICTIONS.** In accordance with **Section 40-4-47.** The lot and building requirements, Permitted Uses for the "C-2" Highway Commercial District shall be the same as the "C-1" Commercial District with the exception that all structures in the "C-2" District shall have at a minimum a **fifteen (15) foot** setback from the front lot lines.

40-4-58 **PERMITTED USES.** Provided all the use restrictions of this District are observed, the following uses are permitted:

Any use permitted in the "**C-1**" District.

Such uses as the following are especially appropriate in this District:

- bowling alleys
- furniture and appliance sales
- greenhouses
- commercial plant nurseries
- lumber and building supplies sales
- motor vehicles sales

Government uses.

Offices.

Service establishments, any type, including drive-in facilities.

Such uses as the following especially appropriate in this district:

- animal hospitals
- banks and other financial institutions
- motels
- motor vehicles services
- restaurants
- service stations

Accessory uses in accordance with **Section 40-3-14** and **40-3-15.**

40-4-59 **SPECIAL USES.** Provided all the use restrictions of this District are observed, the following special uses may be allowed by special-use permit.

Bus terminals and bus transportation facilities.

Drive-in theaters.

Dwelling units, two-family or multiple-family.

Nursing Homes.

Outpatient Services Facility.

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

Senior Assisted Living Facilities. (**Ord. No. 1284; 06-18-13**)

Storage buildings. (**Ord. No. 1349; 08-16-16**)

Warehousing and wholesaling of any goods except explosives, flammable gases or liquids, or live animals. **(Ord. No. 1294; 06-18-13)**
(Ord. No. 1284; 06-18-13)

40-4-60 RESERVED.

DIVISION VIII - RURAL COMMERCIAL

40-4-61 **"C-3" RURAL COMMERCIAL DISTRICT.** The "C-3" Commercial District encompasses established rural commercial areas where a wide range of goods and services are offered to the general public at retail and wholesale.

40-4-62 **SPECIAL RESTRICTIONS.** In accordance with **Section 40-4-47.**

40-4-63 **LOT AND BUILDING REQUIREMENTS.**

(A)	Minimum Lot Area:	1 acre
(B)	Minimum Lot Width:	100 feet
(C)	Minimum Lot Depth:	100 feet
(D)	Minimum Setbacks:	25 feet
(E)	Maximum Building Height:	60 feet

40-4-64 **PERMITTED USES.**

- Assembly or manufacturing of wood products from semi-finished materials.
- Assembly, manufacturing or processing of any commodity from semi-finished materials provided explosives, flammable gases or liquids are not involved.
- Churches.
- Clubs and lodges.
- Commercial establishments, wholesale and retail
- Convenience shops.
- Day care centers.
- Government uses of the City of Breese and other units of government.
- Manufactured home and RV sales.
- Medical/dental clinics.
- Offices.
- Service establishments.
- Service stations.
- Utility substations.

40-4-65 **SPECIAL USES.**

- Accessory uses in accordance with **Section 40-3-14.**
- Commercial establishments, wholesale and retail, not otherwise included in **Section 40-4-64** "Permitted Uses".
- Dwelling, two-family or multiple-family.
- Nursing Homes.
- Senior Assisted Living Facilities. **(Ord. No. 1284; 06-18-13)**
- Storage buildings. **(Ord. No. 1349; 08-16-16)**

40-4-66 **RESERVED.**

DIVISION IX - INDUSTRIAL DISTRICT

40-4-67 **"I" - INDUSTRIAL DISTRICT.** The "I" Industrial District is intended to provide for areas where light industry, warehouses, and wholesale businesses may locate without detriment to the remainder of the community.

40-4-68 **SPECIAL RESTRICTIONS.**

(A) No residential housing of any type, including manufactured homes.

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

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

(D) **Buffer Areas.** Landscape development shall be required to include an area of at least **twenty (20) feet** in width along all streets, with the exception of approved entrances which border the proposed development, to be planted and maintained with trees and shrubbery to serve as a screen for the parking and storage areas.

(1) A **twenty-foot (20')** wide planting screen, consisting of suitable shrubbery and trees, shall be planted wherever the industrial use abuts any other use district. Such screen shall consist of shrubbery and trees at least **five (5) feet** in height when planted and shall be maintained at not less than **ten (10) feet** in height when full grown or as approved by the Administrative Official.

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

(F) **Signs. See Article VIII.**

(G) **Site plan required. (See Article X, Section 40-10-2).**

40-4-69 **LOT AND STRUCTURE REQUIREMENTS.**

(A)	Minimum Lot Area:	20,000 square feet
(B)	Minimum Lot Width at the established building line:	125 feet
(C)	Minimum Lot Depth:	150 feet
(D)	Minimum Setbacks:	
	(1) From front lot line:	25 feet
	(2) From any side lot line:	25 feet
	(3) From rear lot line:	25 feet
(E)	Maximum Structure Height:	60 feet

40-4-70 **PERMITTED USES.** Provided all the use restrictions of this District (**Section 40-4-68**) are observed, the following uses are permitted:

Assembly, manufacturing or processing of any commodity from semi-finished materials,
provided explosives, flammable gases or liquids or live animals are not involved.
Freight and bus terminals and related mass transportation facilities.

Government uses of Breese and other units.

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

Service stations.

Utility substations or government uses.

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

40-4-71 SPECIAL USES. Provided all the use restrictions of this District (**See Section 40-4-68**) are observed, the following uses may be allowed by special use permit:

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

Junk/salvage yards, but only in accordance with **Section 40-6-7.**

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

Storage buildings. (**Ord. No. 1349; 08-16-16**)

40-4-72 RESERVED.

ARTICLE V - RESERVED.

ARTICLE VI

SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

40-6-1 **APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements and design standards, and use limitations for specific, potentially troublesome structures and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special-use permit; but if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-6-2 **AGRICULTURAL ACTIVITIES.**

(A) **Farm Animals.** No barn, stable, shed, or other structure intended to shelter farm animals (including, but not limited to, horses, cattle, hogs, and chickens) shall be erected closer than **three hundred (300) feet** to any existing dwelling, or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. Similarly, fences shall be erected or other means shall be taken to prevent farm animals from approaching closer than **three hundred (300) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line or residential property, whichever distance is greater. (Exception: Such footage requirements shall not apply to seasonal fencing used to contain livestock pastured for the purpose of salvaging crops, provided that such temporary fencing remains no longer than a period of **three (3) months**.)

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

40-6-3 **BUFFER STRIPS, FENCES, WALLS AND HEDGES.** Buffer strips, fences, walls or hedges used for any purpose shall, in all districts, conform to the following:

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

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

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

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

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

(E) No fence, wall or other obstruction shall exceed **eight (8) feet** in height in any district except the Industrial District (I) where the maximum height shall not exceed **ten (10) feet**; exemption, planting screen, in addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls, or other obstructions. **(Section 40-3-12(B).)**

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

(G) No fence, wall or other obstruction shall be erected on or within **three (3) feet** of a property line unless the Owner presents a survey to the Zoning Administrator showing the location of the property lines and the proposed fence; or Owner has demonstrated to the Zoning Administrator that he has located the survey pins or markers on Owner's property marking the previously surveyed property line and that Owner and all adjoining and abutting property owners along the proposed fence line have viewed the survey markers and approve of the location of the fence and the survey markers. An applicant for a Building Permit for a fence shall include on the application a statement to the effect that Owner has had the property surveyed and the lines located or that Owner and the adjoining and abutting owners have located the corner survey pins and agree to the boundary location and are aware of the type and proposed location of the fence, wall or other obstruction to be erected and have given their written permission.

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

40-6-4 LIGHTING CONTROLS. Any lights used for the illumination of signs, parking area, swimming pools, or any other purpose shall be arranged in such a manner as to direct the light away from neighboring residential properties and away from the vision of passing motorists.

40-6-5 HOME OCCUPATIONS. A "home occupation" means any business, profession, or occupation conducted for gain or support entirely within any dwelling or on any residential premises. Within this municipality every home occupation shall be considered a special use. No home occupation shall be established or conducted except in conformity with the following regulations:

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

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

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

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

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

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

(G) **Signs.** There shall be no advertising, display, or other indications of a home occupation on the premises, except as provided in **Article VIII.**

(H) Special Use Permit holders for a home occupation can be reviewed for compliance to code on an annual basis.

40-6-6 HOSPITALS, NURSING HOMES.

(A) The lot on which any hospital is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **five (5) acres**.

(B) The lot on which any nursing home or senior assisted living facility is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **two (2) acres**.

(C) The principal building of any hospital, nursing home or senior assisted living facility shall be located at least **twenty-five (25) feet** from all lot lines.

40-6-7 JUNK/SALVAGE YARDS.

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

(B) All existing junk yards located in any Residential or Commercial District shall meet the requirements of **Section 40-6-7** within **two (2) years** following the adoption of this Code.

(C) No part of any junk yard, which includes any lot on which **three (3)** or more inoperable vehicles are stored, shall be located closer than **five hundred (500) feet** to the boundary of any residential district. **(See definition "Junk Yard", Section 40-2-2.)**

40-6-8 KENNELS.

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

(B) Every kennel shall be located at least **two hundred (200) feet** from the nearest dwelling, and at least **one hundred (100) feet** from any lot line.

40-6-9 SERVICE STATION.

(A) The exterior storage of any used equipment and/or parts for more than **fourteen (14) days** shall be prohibited.

(B) The exterior storage of any flammable material shall be controlled by the **BOCA Building Code. (Chapter 6)**

(C) All gasoline pumps and other service facilities setbacks shall be located according to State Law.

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

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

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

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

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

40-6-10 PARABOLIC OR DISH-TYPE ANTENNAS. Parabolic or dish-type antennas located outside of the business or residence lot shall meet the following requirements:

(A) Maximum number per business lot or residence lot shall be **one (1)**. Businesses selling these discs shall be allowed a maximum of 3, and only 1 of these shall be allowed in the front of the building.

(B) The parabolic or dish-type antenna shall be located in the rear yard, except that when the main building is on a corner lot, the parabolic or dish-type antenna cannot be closer to the adjoining side street and the main building is permitted to be located.

(C) The parabolic or dish-type antenna shall be placed in the rear yard, except that if a usable satellite signal cannot be obtained from the rear yard, the antenna may be located on the side yard of the property, subject to the approval of the Zoning Administrator and subject to the other requirements of this Section.

In the event that a usable satellite signal cannot be obtained from the rear or side yard of the property, such antenna may be placed on the roof of a structure perpendicular to the height of the main structure, subject to the approval Zoning Administrator and subject to the other requirements Section.

(D) Screening shall be as deemed necessary Zoning Administrator for commercial installations.

(E) All parts of the parabolic or dish-type structure must be a minimum of **five (5) feet** from all property lines of the lot.

(F) The parabolic or dish-type antenna shall be mounted on a steel pipe support embedded in a concrete foundation, and the parabolic or dish-type antenna when turned perpendicular to the ground, together with the base, shall not extend more than **fifteen (15) feet** above the ground. In the event that a usable signal cannot be obtained at a height of **fifteen (15) feet** then the pole may be raised to the minimum height necessary to obtain a clear signal for the installation. The main diameter of the parabolic or dish-type antenna shall not exceed **eleven (11) feet**.

(G) All petitions for relief from the provisions of this Section shall be heard by the Zoning Board of Appeals and approved by the Zoning Board.

(H) Observance of safe distances between the parabolic or dish-type antenna, appendages thereto, and public utility wires in accordance with public utility requirements shall be mandatory. Polar-mount and drive-motor systems shall conform to the National Electric Safety Code requirements in existence at the time of application for a permit.

(I) A permit of zoning compliance shall be required prior to erection of any such parabolic or dish-type antenna.

(J) No parabolic or dish-type antenna shall be roof-mounted, unless the dish is **six (6) feet** or less in diameter and is mounted on the rear portions of the roof.

(K) No parabolic or dish-type antenna shall be used or served as a sign for the purpose of advertisement by a business or commercial unit.

(L) **Nuisance and Injunction.** Any violation of this Section is hereby declared to be a nuisance. In addition to any other relief provided by this Code, the City Attorney may apply to a Court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Section. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(M) This Section shall not apply to any existing parabolic or dish-type antenna which have been installed prior to the effective date of this Section.

40-6-11 GARAGES REPAIR. In repair garages, all repair work servicing and storage of parts and equipment concerning vehicle, boats, auto body, radiator and appliance repair and similar use shall be done completely within an enclosed building or shall be enclosed by a solid fence at least **eight (8) feet** in height or a planting screen of at least **ten (10) feet** in depth and **eight (8) feet** in height, or as approved by the Administrative Official.

40-6-12 RECREATIONAL VEHICLES. The regulations of this Section do not apply to recreational vehicles parked in a permitted travel trailer park or on a permitted recreational vehicles sales lot. The following shall be applicable:

(A) Not more than **one (1)** recreational vehicle shall be parked on any lot. It shall be unlawful to park a truck-camper, trailer, camp trailer, recreational vehicle, or watercraft anywhere other than on a private road or driveway, in a garage or in a rear yard. The parking of such vehicles in areas allowed hereby shall further be subject to all applicable setback requirements.

(B) No recreational vehicle shall be used as a dwelling.

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

40-6-13 UTILITY TRAILERS. The parking of not more than **one (1)** utility trailer (not exceeding **eight feet** wide by **twenty feet** long (**8' x 20'**) in the side or rear yard or driveway only is hereby permitted, provided that no living quarters or businesses shall be maintained in any such utility trailer and shall comply with the yard requirements for accessory buildings of the zone district in which it is located.

40-6-14 SWIMMING POOLS.

(A) No private swimming pool shall be located in any front yard or closer than **fifteen (15) feet** to any side or rear lot line.

(B) Every swimming pool that is capable of holding more than **twenty-four (24) inches** of water shall be enclosed by a wall or fence at least **four (4) feet** in height. The passage through such wall or fence shall be equipped with a locking gate. However, an above ground pool with sidewalls extending at least **forty-eight (48) inches** above finished elevation does not require fencing provided that access to the pool is removed when the pool is unattended.

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

40-6-15 UTILITY SUBSTATIONS. Every electrical substation, gas regulator station, telephone exchange facility, private sewage treatment plant, private water storage facility, or similar facility shall conform to the following regulations: **(Ord. No. 1348; 08-16-16)**

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

(B) In any residential district, every such facility shall be designed, constructed, and operated so that it is compatible with the residential character of the area.

(C) The area on which the facility is located shall be landscaped and a landscaping plan shall be submitted.

(D) All parcels or lots on which substations, exchanges, equipment or transformers are located shall meet the following minimum landscaping standards:

(1) A planting screen of at least **ten (10) feet** in depth and expected to reach a height of at least **ten (10) feet** shall be provided and maintained. Furthermore, if the Administrator determines that the facility poses a safety hazard (for example, if there are transformers exposed), he shall require that a secure fence at least **ten (10) feet** in height be installed behind the planting screen.

40-6-16 **SCHOOLS.**

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

<u>Type of School</u>	<u>Minimum Lot Area</u>
Elementary, Junior High, Senior High	As required by State Law (See 105 ILCS Sec. 5/35-8) generally 4 acres for every 150 students in excess of 200.

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

40-6-17 **COMMERCIAL PLANT NURSERIES AND GREENHOUSES.** In any district where tree and plant nurseries and greenhouses are permitted, the establishment of such uses shall be subject to the following requirements:

(A) No fertilizer, compost, manure or other odor-or-dust-producing substance shall be stored within **fifty (50) feet** of any property line.

(B) Greenhouse heating plants shall be in an enclosed building and shall not be less than **fifty (50) feet** from any property line.

40-6-18 **PUBLIC BUILDINGS.** In any zone district where publicly owned office of governmental buildings other than the City of Breese are permitted, there shall be no permanent storage of heavy construction or maintenance equipment (such as excavating, road building, or hauling equipment) unless in an enclosed building or enclosed with a live planting screen and fenced as approved by the Administrative Official. Such storage areas, maintenance yards, or storage warehouses shall be located at least **fifteen (15) feet** from any property line.

40-6-19 **PUBLIC RIGHT-OF-WAY DEDICATION.** Where a building permit is required, the applicant shall provide for and insure that there is sufficient right-of-way to provide for future road improvements and the location of maintenance of public and private utility facilities,

including water, sewer, drainage, telephone, electricity, cable television, etc. Dedication of easement or fee title shall be offered as deemed necessary or appropriate under the circumstances by the City Engineer.

40-6-20 CHURCHES AND HOUSES OF FORMAL WORSHIP. The following restrictions shall apply to churches no matter if they are permitted uses or special-uses:

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

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

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

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

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

40-6-21 STORAGE CONTAINERS. It shall be unlawful to locate in this City an accessory use known as a storage container consisting of either a railroad or train car, a truck body or shell or a truck trailer, licensed or unlicensed, on any lot in the City, unless the lot is in a zoned commercial or industrial district. All containers shall be closed and be secured when not in use. They shall meet all setbacks prescribed for accessory uses and located on a permanent foundation. The Zoning Administrator may submit all applications for a "storage unit" to the Zoning Board of Appeals if he feels that the unit is not consistent with this Section. **(See Section 40-3-12 for height limitations.)**

40-6-22 OUTDOOR WOOD FURNACES (Referred to as: OUTDOOR WOOD BOILERS OR OUTDOOR WOOD-FIRED HYDRONIC HEATERS OR HYDRONIC HEATERS). An outdoor wood-fired hydronic heater may be installed and used only in accordance with all of the following provision:

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

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

(C) If neither Phase I nor Phase II emission standards as set forth in this Section are met by the outdoor wood-fired hydronic heater, than the heater shall not be located within **five hundred (500) feet** of the nearest residence which is not on the same property as the wood-fired hydronic heater.

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

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

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

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

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

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

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

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

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

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

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

ARTICLE VII

OFF-STREET PARKING AND LOADING

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

40-7-2 **DESIGN STANDARDS, ACCESS AISLE AND SPACE REQUIREMENTS.**

(A) **Space Requirements.**

- (1) **Parking Spaces.** Each off-street parking space shall be **ten feet wide by twenty feet long (10' x 20')**, and shall have at least **seven (7) feet** of vertical clearance. The size of all parking spaces shall be measured from the center line of each stripe.
- (2) **Handicapped Parking Spaces.** Each handicapped off-street parking space shall be **sixteen feet wide by twenty feet long (16' x 20')**.
- (3) **Aisles.** Interior parking aisles permitting two-way traffic should be a minimum of **twenty-four (24) feet** in width. One-way aisles in conjunction with sixty degree parking shall be a minimum of **eighteen (18) feet** in width. Plans for other aisle widths with other angle parking shall be as approved by the Public Works Manager.
- (4) Access to off-street parking areas in all residential zone districts shall be a minimum of **ten (10) feet** wide except as follows:
 - (a) If a driveway is longer than **one hundred (100) feet** or serves more than the required parking for **four (4)** dwelling units, the minimum width shall be **twenty (20) feet**.
 - (b) **Two (2)** one-way drives, each **twelve (12) feet** wide, may be provided in lieu of **one (1) twenty (20) foot** driveway.
- (5) Access to off-street parking areas in all commercial and industrial zones shall be a minimum width of **twenty-four (24) feet** or **two (2)** separate driveways each **twelve (12) feet** wide.
- (6) Markings shall be laid and restored as often as necessary as determined by the Public Works Manager.

(B) **Design Standard, Ingress and Egress.** All parking areas in any multiple-family, business, industrial or similar zone district shall be designed or arranged so that no vehicle can have direct access to or egress from any off-street parking space from a public right-of-way. In any instance stated in this Section, ingress to and egress from a parking space shall be from an aisle, driveway, or similar arrangement by forward motion of the vehicle.

- (1) No access way or lane shall be within **thirty (30) feet** of any corner formed by the intersection of the right-of-way of **two (2)** or more streets. On a corner where a traffic signal exists, such entrance or exit shall be located at such distance and in such manner so as not to cause or increase traffic hazard or undue congestion.
- (2) The alignments of access ways shall be at right angles and offsets are not to exceed **twenty (20) degrees**.

(3) Except in unusual circumstances, no access way from a public street shall exceed **thirty-five (35) feet** in width.

(C) **Design Standards, Lot Lines.** All parking aisles and parking spaces shall be entirely within the lot lines, and not on a public right-of-way. Parking spaces and loading spaces shall be so arranged that no part of any vehicle overhangs the public right-of-way.

(D) **Design Standard, Screening and Landscaping.** All open automobile parking lots serving a commercial, industrial, institution or similar use shall provide a landscaped screen, wall or fence along those property boundaries abutting a residential district. Design or parking areas should incorporate such features as planting islands, berms and pedestrian walkways, planned to beautify the area, make it safer for those using it, and to minimize such problems as storm water runoff. Such landscaping screens, walls, or fences shall be maintained by the owner or lessee and shall be filed with the Administrative Official. Plans for the landscaping, wall or fence shall be approved by the Public Works Manager.

40-7-3 LANDSCAPING. Landscaping shall be provided and maintained within every parking lot that contains **twenty (20)** or more parking spaces. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed for an approved dustless surface.

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

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

- (1) Proposed type, amount, size, and spacing of plantings, including trees, shrubbery, and ground cover;
- (2) Proposed size, construction materials, and drainage of landscaping islands; and
- (3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation, and pedestrian movement.

(C) **Lighting.** Any lighting used to illuminate any parking lot shall be arranged or shielded so as to confine direct light rays within the lot lines of the parking lot to the greatest extent practicable.

40-7-3.1 SETBACK. Where **two (2) lanes** of off-street parking are provided between any building and a street, in order to accommodate pedestrian and vehicular traffic, the building shall be set back at least **seventy-five (75) feet** from the lot line. A **six (6) inch** vertical curb or other approved device shall be provided to separate such off-street parking areas from the public right-of-way. Similar parking in the rear of a building shall require a setback of at least **sixty-four (64) feet**.

40-7-3.2 SURFACING. Parking lots shall be graded and improved with a compacted stone base at least **seven (7) inches** thick, surfaced with at least **two (2) inches** of asphaltic concrete or approved comparable material. Parking lots used exclusively for employees are hereby exempt from these requirements, but shall be constructed of an approved dustless surface. **(Note: "Oil and chip" is not comparable material.)**

40-7-3.3 **EXISTING PARKING/LOADING FACILITIES AND USES.** Accessory off-street parking or loading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of this Code, or were provided voluntarily after such effective date, shall not hereafter be reduced below, or if already less than, shall not further be reduced below the requirements of this Code for a similar new building or use.

(A) **Change in Use.** Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required herein for such new use.

(B) **Additions.** When the intensity of use of any building, structure, or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, or other units or measurement specified herein for required parking or loading facilities, parking and loading facilities, as required herein, shall be provided for such increase in intensity of use.

40-7-4 **JOINT PARKING FACILITIES.** Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

40-7-5 **LOCATION OF OFF-STREET PARKING FACILITIES.** The location of off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances shall be walking distances from a main entrance of the use served to the nearest point of the parking facility.

(A) **For Uses in Residential Districts.** Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served and may be located in any yards except required front yards, but shall be permitted in that portion of the front yard coterminous with the side yard wherein the driveway is located. Off-street parking facilities accessory to residential use and developed in any residential district shall be used solely for the parking of passenger automobiles or the vehicles owned or operated by the occupants of the dwelling structures. When **two (2)** or more parking spaces are required, there shall be an unobstructed parking space for each vehicle, such as double garage, double driveway or separate parking stalls. In no instance shall a commercial vehicle exceeding **one (1) ton** capacity be parked in a residential area, except for normal loading, unloading or service, except by a special-use permit. A special-use permit shall be required for a commercial or related use in a residence district for required parking on an adjacent lot or a lot across the street, but not more than **two hundred (200) linear feet** from the use served. Such use shall meet the requirements of **Sections 40-7-5 and 40-7-7.**

(B) **For Uses in Business and Industrial Districts.** All required parking spaces shall be within **one thousand (1,000) feet** of the use served, except that spaces accessory to dwelling units (other than those located in a transient hotel) shall be within **three hundred (300) feet** of the use served. However, no parking spaces accessory to a use in a Business District or Industrial District shall be located in a Residence District, except that private, free, off-street parking accessory to uses, and municipal parking lots, may be allowed by special-use permit within **five hundred (500) feet** of and adjacent to any Business or Industrial District.

(C) **Off-Site Parking Facilities.** When required parking facilities are provided on land other than the zoning lot on which the building or use served by such facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. No such off-site parking facilities shall be

authorized and no building permit or occupancy permit shall be issued where the plans call for parking facilities other than on the same zoning lot until and unless the Administrative Official has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot and the site of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or building, providing the off-site parking facilities are within **one thousand (1,000) feet** of the main entrance with walkways provided. This Section is not applicable for residential uses.

40-7-6 OTHER PARKING USES. For uses not listed heretofore in this schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use as determined by the Administrative Official. Parking spaces shall not be used for any other purpose except by special-use permit.

40-7-7 PARKING SPACES REQUIRED. For the following uses, accessory off-street parking spaces shall be provided as required hereinafter. Employee Parking required for all commercial establishments. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time. When employee parking is required, it shall be provided on the basis of **one (1) space** for each **one and one-half (1 1/2) employees**.

<u>Use</u>	<u>Parking Spaces Required</u>
(A) <u>Residential, Civic, Educational, Institutional:</u>	
Apartment Hotels	Two (2) for each dwelling unit
Churches and Auditoriums	One (1) per four (4) seats for the largest seating area
Elementary and Junior High School	One (1) per five hundred (500) square feet of classroom area.
Senior High Schools	One (1) for each two hundred (200) square feet of classroom area.
Libraries and Museums	One (1) for each five hundred (500) square feet of total floor area.
Municipal Buildings	One (1) for each three hundred (300) square feet of total floor area.
Lodging Houses	One (1) for each dwelling unit or lodging room; two (2) for the owner or manager.
Motels and Motor Hotels,	One (1) for each dwelling unit or lodging room.
Multiple-Family Dwelling (Two bedrooms and above)	Three (3) for each dwelling unit.

<u>Use</u>	<u>Parking Spaces Required</u>
Multi-Family Efficiency and Multi-Family One Bedroom	One and one-half (1 1/2) per dwelling unit.
One-Family Dwelling	Two (2) for each dwelling unit.
Private Clubs, Lodges and Dormitories with Sleeping Facilities for Guests	One (1) for each lodging room; in dormitories, each one hundred (100) square feet shall be considered equivalent to a lodging room.
Two-Family Dwelling	Two (2) for each dwelling unit.
(B) <u>Retail and Service Uses.</u>	
Automobile Car Wash Automobile Service Stations Banks	On Review. On Review. Three (3) parking spaces shall be provided for each 1,000 square feet of floor area, plus one space for each company or business vehicle.
Banks, Drive-In Bowling Alleys	On Review. Four (4) parking spaces shall be provided for each alley, plus such additional spaces as may be required herein for affiliated uses - bars, restaurants, and the like.
Drive-In Restaurants Furniture and Appliance Stores, Household Equipment or Furniture Repair Stores	On Review. One (1) parking space shall be provided for each 400 square feet of gross floor area, plus spaces required for office and employee use.
Home occupations	One (1) space for each 150 square feet of floor space utilized in addition to the parking requirements of the dwelling unit.
Hospitals	One (1) parking space shall be provided for each two (2) hospital beds, plus employees (other than staff doctors), plus one (1) parking space for each doctor assigned to the staff.

<u>Use</u>	<u>Parking Spaces Required</u>
Motor Vehicles Sales and Machinery Sales	One (1) parking space shall be provided for each 200 square feet of showroom space.
Municipal or Privately Owned Recreation Building or Community Centers	One (1) parking space shall be provided for each 1 1/2 employees plus spaces adequate in number to serve the visiting public, as determined by the Zoning Board.
Nursing homes	One (1) parking space shall be provided for each four (4) beds, plus parking for employees (other than staff doctors), plus one (1) parking space for each doctor assigned to the staff.
Retail Stores, Freestanding	One (1) parking space shall be provided for each 200 square feet of retail space.
Restaurants/Taverns	One (1) parking space shall be provided for each five (5) seats, or for each 50 square feet of floor area used for assembly or seating purposes, whichever gives the greater number of spaces.
Shopping Center and Combined Commercial-Office or Service Use	Six (6) spaces per 1,000 square feet of gross leasable area.
Theaters (indoor) and Stage	One (1) parking space shall be provided for each four (4) seats.
Theaters, Automobile Drive-In	At least 10 stacking spaces or at least 8 for each entrances at the ticket booths.
Funeral Homes	Ten (10) parking spaces shall be provided for each chapel or parlor, or one (1) space for each 5 seats, whichever is greater, plus one (1) parking space for each funeral vehicle kept on the premises.

<u>Use</u>	<u>Parking Spaces Required</u>
(C) <u>Office uses.</u>	
Business, Professional and Governmental Offices	Three (3) parking spaces shall be provided for each 1,000 square feet of floor area, plus one (1) space for each company or business vehicle.
(D) <u>Industrial Uses.</u>	
Industrial Uses of all types, except warehousing and Transportation Terminals less than 250,000 square feet of gross area:	
Employee Parking	One (1) parking space per 1 1/2 employees on maximum shift or not less than one (1) parking space for each 500 square feet of gross floor area; when more than one shift is employed, parking for both shifts shall be provided, unless sufficient time is allowed between shifts to provide for the maximum use of the required parking.
Visitor Parking	One (1) parking space for each 25 employees on main shift, with a <u>required</u> minimum of 2 parking spaces and a maximum of 20 required visitor spaces.
Company Vehicles	One (1) parking space to accommodate each company-owned or leased truck or vehicle usually found on the premises; size of parking space for trucks shall be approved by the Administrative Official.
Industrial Use of all types, except Warehousing and Transportation Terminals More than 250,000 square feet of gross floor area:	
Employee Parking	One (1) parking space per 1 1/2 employees on site at maximum shift, or not less than one (1) for each 500 square feet; then one (1) parking space for each 1,000 square feet of floor area.
Visitor Parking	One (1) parking space for each 25 employees on main shifts, with a required minimum of 2 parking spaces and a maximum of 20 visitor parking spaces.

<u>Use</u>	<u>Parking Spaces Required</u>
Company Vehicles	One (1) parking space to accommodate each company-owned or leased truck or vehicle usually found on the premises; size of parking spaces for trucks shall be approved by the Administrative Official.
Warehousing	
Employee Parking	One (1) parking space for each 1,000 square feet of gross floor area or one (1) parking space for each 1 1/2 employees, whichever is greater; whenever all or any portion of a warehousing area, facility or building is proposed to be converted, remodeled, or changed to a non-warehouse use, the number of parking spaces required by this section for the intended use shall be secured and provided for prior to conversion of use or remodeling of the warehouse facility or building.
Company Vehicles	One (1) parking space to accommodate each company-owned or leased truck or vehicle usually found on the premises; size of parking spaces for trucks shall be approved by the Administrative Official.
Transportation or Trucking Yard Terminals	
Employee Parking	One (1) parking space for each 1,000 square feet of warehousing, shop area, or loading area and one (1) parking space for each driver of a company vehicle which is dispatched from said terminal.
Company Vehicles	One (1) parking space to accommodate each company-owned or leased truck or vehicle usually found on the premises; size of parking spaces for trucks shall be approved by the Administrative Official.

40-7-8 OFF-STREET LOADING. Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. Such access way shall be at least **twelve (12) feet** in width.

(A) **Below Minimum Floor Area.** Uses for which off-street loading facilities are required herein, but which are located in buildings of less floor area than the minimum for which such facilities are required shall be provided with adequate receiving facilities as determined by the Zoning Board.

(B) **Loading Space Area.** Loading space for vehicles over **two (2) ton** capacity shall not be closer than **fifty (50) feet** to any property in a residential district unless completely enclosed by building walls, a solid fence, wall or foilage buffer not less than **ten (10) feet** in height and width. Overnight parking of mechanical trailers in operation shall be prohibited within **one hundred (100) feet** of a residential area.

(C) **Location.** All permitted or required loading space shall be located on the same zoning lot as the use served, shall not be located within **fifty (50) feet** of the intersection of any **two (2) streets**, and shall not be located within required front yards.

(D) **Not For Parking.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(E) **Size.** Unless otherwise specified, a required loading space shall be at least **ten (10) feet** in width by at least **fifty-Two (52) feet** in length (**10' x 52'**) and shall have a vertical clearance of at least **fourteen (14) feet**, or as determined by the Administrative Official such greater distances as are needed to accommodate vehicles so that no vehicle overhangs into the public right-of-way or interferes with internal circulation. Reasonably adequate turning and maneuvering space shall be provided in addition to said minimum size loading berth requirements.

(F) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any "R" Residential District.

(G) **Special Use, Other Uses.** For special uses and uses other than prescribed for in this Code, loading spaces, adequate in number and size to serve such use shall be provided as determined by the Zoning Board.

(H) **Surfacing.** All open, off-street loading space shall be improved with a compacted stone base not less than **seven (7) inches** thick, surfaced with not less than **two (2) inches** of bituminous concrete or some comparable material with comparable construction. No "oil and chip".

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

(J) **Loading Spaces Required.** For the uses listed in the following table, off-street loading space shall be provided on the basis of gross floor area of a building or portions thereof devoted to such uses in the amounts shown herein:

Total Square Feet of Gross Floor Area Per Building	Loading Spaces Required
(1) Commercial, Office and Industrial Uses:	
To 2,999 (See Paragraph A)	
3,000 to 19,999	1
20,000 to 49,999	2
50,000 to 100,000	3
Above 100,000	On Review

(2) Hospital, Institutions, and Similar Uses:

To 9,999 (See Paragraph A)

10,000 to 49,999

50,000 to 100,000

Above 100,000

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On Review

ARTICLE VIII - SIGN REGULATIONS

40-8-1 **GENERAL PROHIBITION.** Any sign not expressly permitted in this Article shall be deemed prohibited.

40-8-2 **COMPUTATION OF SIGN AREA ALLOWANCE.** Within the limitations and restrictions as further provided in this Article, the total area of all signs which an establishment is permitted to display shall be computed according to the following formula:

One (1) square foot of sign area per one (1) foot of street frontage; provided, however, that no establishment in any district shall display more than one hundred fifty (150) square feet of sign on any street front.

(A) **Definition of Sign Area.** As used in this Article, the term "sign area" means the area of the one imaginary square or rectangle which would completely enclose all the letters, parts, or symbols of a sign. **(See Exhibit C, Figure 3 at End of Code.)**

(B) **Special Situations.**

- (1) Except as specifically provided otherwise in this Article, if an establishment has frontage on **two (2)** or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this Article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any one frontage a greater area of signs than would be permitted by application of the formula set forth above.
- (2) The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

40-8-3 **SIGNS TO BE NON-HAZARDOUS, WELL-MAINTAINED.**

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

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

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

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

40-8-4 **ILLUMINATION.** Illumination of signs is permitted as long as they comply with **Section 40-8-3** and subject to the following requirements:

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

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

40-8-5 **MOVEMENT PROHIBITED.** Every sign that revolves, rotates, or mechanically moves in any manner is prohibited.

40-8-6 **NONCONFORMING SIGNS.** A nonconforming sign means any lawfully erected sign or billboard that does not conform to one or more provisions of this Article or any amendment thereto.

40-8-7 **RESTRICTIONS: NONCONFORMING SIGNS.** Any nonconforming sign that does not pose an imminent peril to life or property may lawfully remain subject to all the restrictions on the enlargement, alteration, or relocation, or reconstruction of nonconforming structures set forth in **Article IX, Section 40-9-3** of this Code; provided as follows:

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

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

40-8-8 **STRICTLY PROHIBITED SIGNS.** Except as specifically noted otherwise, henceforth, the following signs and street graphics are strictly prohibited throughout the City:

(A) No new mobile/portable marquees or any other temporary signs for not more than **thirty (30) days** except when the Zoning Administrator extends the time period for an additional **thirty (30) days**. Any further time extension shall thereafter be applied for through Zoning Board of Appeals and the Board may grant such time extension as seems reasonable and necessary in compliance with this Article. (A permit is required.)

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

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

(D) Roof-Top mounted signs.

40-8-9 **SIGNS PERMITTED IN ANY DISTRICT.** Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the City. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance. **(See Sec. 40-8-2)**

(A) **Construction Signs** identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building, but not advertising any product: Such signs shall not exceed **thirty-two (32) square feet** in area, shall be confined to the site of the construction, and shall be removed within **fourteen (14) days** after the intended use of the project has begun.

(B) **Real Estate Signs,** indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **four (4) square**

feet; on other property, such signs shall not exceed **sixteen (16) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental or lease.

(C) **Political Signs**, announcing candidates seeking public/political office and/or political issues and other pertinent information: In the Agricultural District, and in any residential district, political signs shall not exceed **sixteen (16) square feet**; in other districts, such signs shall not exceed **thirty-two (32) square feet**.

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

(E) **Public Interest Signs and Street Banners**, publicizing a charitable or non-profit event of general public interest: In the Agricultural District, and in any Residential District, public interest signs shall not exceed **thirty-two (32) square feet**. Public interest signs and street banners shall be permitted only for **twenty-eight (28) days** before and **seven (7) days** after the event.

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

(G) **Institutional Signs** identifying a public, charitable, or religious institution: Such signs shall be located on the premises of such institution, shall not obstruct the vision of motorists.

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

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

(J) **Subdivision Entrance Signs**, identifying a residential subdivision or apartment complex: Such signs shall be in compliance with **Section 40-8-2**.

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

(L) **Window Signs**. Signs permanently (i.e., longer than **thirty (30) days**) mounted in display windows shall be debited against the sign area allowance of the particular establishment; window signs mounted for shorter periods shall not be debited.

40-8-10 AGRICULTURAL; RESIDENTIAL DISTRICTS. On or after the effective date of this Code, no sign other than those listed in **Section 40-8-9** shall be erected in the Agricultural District or in any Residential District.

40-8-11 BUSINESS; INDUSTRIAL DISTRICTS. No establishment located in any Business District or in the Industrial District shall display on any street front a total area of sign in excess of the allowance derived by application of the formula set forth in **Section 40-8-2**. Additionally, signs in any Business or Industrial Districts shall conform to the requirements indicated in the following sections.

- 40-8-12** **FLUSH-MOUNTED SIGNS.** No flush-mounted (wall) sign shall:
- (A) Project more than **eighteen (18) inches** from the wall or surface to which it is attached; or
 - (B) Extend above the roof line of the building to which it is attached.

- 40-8-13** **PROJECTING SIGNS.** No establishment shall display more than **one (1)** projecting sign on any street front. No projecting sign shall:
- (A) Project above the roof line of the building to which it is attached; or
 - (B) Extend below a point **eight (8) feet** above the ground or pavement; or
 - (C) Project over a driveway or beyond the curblineline of any public street; or
 - (D) Project more than **four (4) feet** from the building to which it is attached;
- or
- (E) Exceed **sixteen (16) square feet** in area.
- (See Exhibit "C")**

40-8-14 **CANOPY OR MARQUEE SIGNS.** Signs mounted flush on any canopy or marquee shall be considered flush-mounted (wall) signs, and shall meet the requirements of **Subsection 40-8-12**. Signs suspended beneath a canopy or marquee shall be considered projecting signs, and shall meet the requirements of **Subsection 40-8-13**.

- 40-8-15** **FREESTANDING SIGNS.** No establishment shall display more than **one (1)** freestanding sign on any street front. Freestanding signs, whether mounted on the ground or post-mounted, shall comply with the following regulations:
- (A) No part of any freestanding sign shall intrude into any public right-of-way. No part of any freestanding sign that extends below a point **ten (10) feet** above the ground or pavement shall be located closer than **ten (10) feet** from the public right-of-way line.
 - (B) The area of any freestanding sign, calculated in accordance with **Section 40-8-2(A)** shall not exceed **one hundred (100) square feet**.
 - (C) When attached to its structural supports, no part of any freestanding sign shall extend more than **thirty-five (35) feet** above the ground or pavement.
 - (D) The length or width of any freestanding sign shall not exceed **twelve (12) feet**.
- (See Exhibit "C")**

- 40-8-16** **BILLBOARDS.** Billboards and other off-premises advertising signs are strictly prohibited in every district except the Industrial District. No billboard shall:
- (A) Be stacked on top of another billboard; or
 - (B) Be located closer than **twenty-five (25) feet** to any side lot line; or
 - (C) Be located closer than **five hundred (500) feet** from any other billboard on the same side of the roadway; or
 - (D) Extend more than **thirty (30) feet** above the ground or pavement;
 - (E) Exceed **three hundred (300) square feet** in area.

40-8-17 **PERMITS.** No person, firm or corporation shall erect or maintain any sign, signboard or rigid canopy over any street, alley, sidewalk or other public way in the City

without having first obtained a permit therefore, as herein provided. Permits for such signs or canopies shall be issued by the City Clerk with the approval of the Public Works Manager and upon payment of the fee provided, and shall designate the location of the proposed structure. **(See Section 40-10-11)**

40-8-18 **BOND.** Each person or corporation maintaining such a sign or rigid canopy shall file with the Clerk a bond or indemnity policy in the sum of **One Million Dollars (1,000,000)** conditioned to indemnify the municipality for any loss or damage or liability that may result from the construction or maintenance of such sign or canopy. Such bond or policy shall have such sureties as may be approved by the City Council. Provided that if a blanket indemnity insurance policy against any loss or liability due to such signs and canopies is secured by the municipality, no such bond shall be required.

40-8-19 **CONSTRUCTION.** All signs and canopies extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the same being dislodged by ordinary winds or falling from any other cause.

40-8-20 **HEIGHTS ABOVE WALK.** The lowest part of any such sign, canopy, or of any non-rigid awning any support thereof which extends over any public way shall be at least **eight (8) feet** above the level of the walk or public way over which it extends; but no such sign shall be maintained over any public way used by vehicles if any part of its support or if the sign is less than **fifteen (15) feet** above the level of such public way.

40-8-21 **INSPECTION.** It shall be the duty of the Zoning Administrator to inspect, or cause to be inspected, every sign, canopy or awning which extends over any sidewalk, street, alley or other public way. If any such sign or canopy is found to be insecurely fastened, he shall report this fact to the owner of the sign or to the owner or occupant of the premises on which it is fastened. If the sign or canopy is not made secure within **ten (10) days** after such notice, it may be torn down by the Public Works Department, on order of the Mayor.

ARTICLE IX – NONCONFORMITIES

40-9-1 **PURPOSE OF ARTICLE.** The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the creation of nuisances, and/or the lowering of property values. The regulations of this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities. **(See 65 ILCS Sec. 5/11-13-1)**

40-9-2 **NONCONFORMING LOTS.** Any vacant lot that does not conform to one or more of the lot size (area dimensions) requirements of the district in which it is located may, nonetheless, be developed for any use permitted in that district if such vacant lot:

(A) was recorded in the Clinton County Recorder of Deeds prior to the enactment of this Code (or pertinent amendment thereto); and

(B) is at least **fifty (50) feet** wide or **thirty (30) feet** wide in existing "C-1" or "C-2" Districts.

40-9-3 **TWO OR MORE LOTS IN COMMON OWNERSHIP.** If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth, or area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code.

40-9-4 **NONCONFORMING STRUCTURES/USES.** Any otherwise lawful structure which exists on the effective date of this Code, but which could not be erected under the terms of this Code because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions.

- (A) **Continuation of a Nonconforming Use.**
- (1) Any lawful building, structure, or use existing at the time of the enactment of this Code may be continued even though such building, structure, or use does not conform to the provisions of this Code for the district in which it is located and whenever a district shall be changed hereafter the then existing lawful use may be continued, subject to the provisions of this Code.
 - (2) Any legal nonconforming building or structure may be continued in use, provided there is no structural change other than normal maintenance and repairs, except as otherwise permitted herein.
 - (3) Any building for which a permit has been lawfully granted prior to the effective date of this Code or of amendments hereto, may be

completed in accordance with the approved plans, provided construction is started within **one hundred eighty (180) days** and diligently pursued to completion. Such building shall be thereafter deemed to be a lawfully established building.

(B)

Change or Extension of Nonconforming Use.

- (1) A nonconforming use shall not be extended, but the extension of a nonconforming use to any portion of a nonconforming building shall not be deemed the extension of such nonconforming use.
- (2) A nonconforming use shall not be changed to a use of the same or greater nonconformity with the district regulations of the district in which it is located and when changed to a use of a greater conformity, shall not thereafter be changed to a use of lesser conformity; however, in the "I" Industrial District, a nonconforming use shall not be changed to any conforming residential use.
- (3) A nonconforming use shall not be altered, extended or restored so as to displace any conforming use.

(C)

Abandonment or Discontinuance.

- (1) When any nonconforming use has been discontinued for a period of **twelve (12) consecutive months**, such use shall not thereafter be resumed and any future use of the premises shall be in conformity with the provisions of this Code, provided that such nonconforming use may be resumed when the owner, during the period of discontinuance, has been actively attempting to continue such nonconforming use.
- (2) Proof of fact in writing must be furnished to the Board of Appeals by the applicant to establish intent not to abandon.

(D)

Repairs, Maintenance, and Alteration.

- (1) Ordinary repairs and maintenance of a nonconforming building shall not be deemed an extension of such nonconforming building and shall be permitted.
- (2) No structural alteration shall be made in a building or other structure containing a nonconforming use except in the following situations:
 - (a) When the alteration is required by law.
 - (b) When the alteration will actually result in elimination of the nonconforming use.
 - (c) When a building in a residence district containing residential nonconforming uses may be altered in a way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

(E)

Restoration. If a building, excluding single-family dwellings, or other structure containing a nonconforming use is damaged or destroyed by any means to the extent of **fifty percent (50%)** or more of its value at the time, based upon the prevailing costs at such time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district in which it is located. In the event the damage or destruction is less than **fifty percent (50%)** of its value, based upon the prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building may be continued which existed at the time of such partial destruction.

- (1) In the event that the Administrative Official's estimate of the extent of damage or fair market value is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Board of Appeals.
- (2) In any event, restoration or repair of the building or other structure must be started within a period of **six (6) months** from the date of damage or destruction and diligently pursued to completion.

(F) **Conditions.** The Administrative Official/Public Works Manager may issue, or cause to be issued, a building permit if the subject matter thereof is otherwise permitted by the provisions of this Article, provided that the Administrative Official may impose such conditions and requirements to the issuance of the permit as are reasonably necessary to promote comparability of the nonconforming use or building with its immediate neighborhood and to protect adjacent property from any adverse effects of the nonconforming use.

ARTICLE X

ADMINISTRATION AND ENFORCEMENT

40-10-1 **ZONING ADMINISTRATOR'S DUTIES.** The office of Zoning Administrator is hereby established. The Administrator is hereby authorized and directed to administer and enforce the provisions of this Code. The broad responsibility encompasses, but is not limited to, the following specific duties:

(A) To review and pass upon application for initial and final certificates of Zoning compliance;

(B) To inspect land, structures, and uses to determine compliance with this Code, and where there are violations, to initiate appropriate corrective action;

(C) To review and forward to the Zoning Board of Appeals all applications for special-use permits, temporary use permits, amendments, variances and appeals;

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

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

(F) To publish copies of this Code and to republish the Zoning district maps not later than **March 31st** if any rezonings or annexations have been approved during the preceding calendar year;

(G) To provide information to the general public on matters related to this Code; and

(H) To perform such other duties as the City Council may from time to time prescribe.

(I) The Zoning Administrator may delegate any of the above responsibilities to a qualified person employed by the City with the approval of the City Council.

40-10-2 **INITIAL CERTIFICATES OF ZONING COMPLIANCE.** Upon the effective date of this Code, no lot shall be created or developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated, or reconstructed until an initial certificate of zoning compliance has been issued. The Administrator shall not issue an initial certificate of zoning compliance unless following consultation with technically qualified persons as necessary; he determines that the proposed work conforms to the applicable provisions of this Code. The Zoning Administrator shall require all applicants to submit a deposit at the time of application along with a required filing fee. The deposit shall be returned upon the issuance of a Final Certificate of Zoning Compliance.

40-10-2.1 **APPLICATION.** Every applicant for an initial certificate of zoning compliance shall submit to the Administrator, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Administrator shall decide which items are applicable. **(NOTE: Filing fee required.)**

ITEMS OF INFORMATION:

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

40-10-2.2 DURATION OF CERTIFICATE. Initial certificates of zoning compliance shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew initial certificates of zoning compliance for successive one-year periods upon written request, provided the applicant is making a good faith effort to complete the authorized work.

40-10-3 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot or part thereof recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied, or put into operation until a final certificate of zoning compliance has been issued. The Administrator shall not issue a final certificate of zoning compliance until it has been determined, **by inspection**, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code. The Deposit made by the applicant with the initial certificate of zoning compliance shall be returned to the applicant upon proof of compliance with this Code.

40-10-4 CORRECTIVE ACTION ORDERS. Whenever the Zoning Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon is in violation of this Code, he shall so notify the responsible party, and shall order appropriate corrective action.

40-10-5 **CONTENTS OF ORDER.** The order to take corrective action shall be in writing and shall include:

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

40-10-6 **SERVICE OF ORDER.** A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (A) Served upon him personally;
- (B) Sent by certified mail to his last known address; or
- (C) Posted in a conspicuous place on or about the affected premises.

40-10-7 **STOP ORDERS.** Whenever any work is being done in violation of an initial certificate of zoning compliance, the Administrator's corrective action order may state that the violation must cease immediately. **(See Section 40-10-5(D).)** In such case, the corrective action order is equivalent to a stop order.

40-10-8 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-10-9 **COMPLAINTS.** Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-10-10 **PENALTIES.**

(A) Any person who is convicted of a violation of this Code shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**, plus costs, including court costs and attorney fees. Each day that a violation continues shall be considered a separate offense.

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

40-10-11 FILING FEES. The City Council requires the applicant to pay the costs of connection to utilities prior to issuing a zoning compliance permit. The City Council establishes the following schedule of fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the applicant to the City Clerk as follows:

(A) **Zoning Occupancy Fees:**

Single-Family Residence	\$100.00
Multi-Family Residence (including garage and all stories)	\$100.00 per unit
Commercial Structure	\$250.00
Industrial Structure	\$500.00
Mobile Home Unit/Immobilized	\$75.00
Mobile Home Replacement	\$75.00
Accessory Building	\$20.00 per building
Residential/Structural Additions	\$25.00
Plan Development	\$10.00
Miscellaneous Permit (Non-Structure) (i.e., parking lot, patio, driveway, pool and deck permanently installed)	\$.02 per sq. ft. (\$10.00 Minimum; \$50.00 Maximum)
Sign Permit	\$10.00

(B) **Zoning Board of Appeals Fees.**

Special-Use Permit	\$200.00
Variance Permit	\$200.00
Amendments	\$200.00

ARTICLE XI

PROCEDURES AND PERMITS

DIVISION I - BOARD OF APPEALS

40-11-1 **BOARD OF APPEALS ESTABLISHED.** The Zoning Board of Appeals of this municipality is hereby established in accordance with Illinois law. **(See 65 ILCS Sec. 5/11-13-3)**

40-11-2 **MEMBERSHIP, APPOINTMENT, COMPENSATION.** The Board of Appeals shall consist of **seven (7) members**, all of whom shall reside within the City. Each Board member shall be appointed by the Mayor with the advice and consent of the City Council. One of the members so appointed shall be named as Chairman at the time of his appointment. Each Board member shall receive for his services such compensation, if any, as is determined from time to time by the City Council. **(See 65 ILCS Sec. 5/11-13-3(C).)**

40-11-3 **TERM OF OFFICE - VACANCIES.** Each Board member shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified; provided, however, that the initial appointees to the Board shall serve respectively for the following terms: one for **one (1) year**, one for **two (2) years**, one for **three (3) years**, one for **four (4) years**, one for **five (5) years**, one for **six (6) years**, and one for **seven (7) years**. With the advice and consent of the City Council, the Mayor may remove any member of the Board of Appeals for cause, after a public hearing. Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of new members. **(See 65 ILCS Sec. 5/11-13-3(C).)**

40-11-4 **RECORDS.** The Secretary or Zoning Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote of abstention of each member on each question, and any official action taken. A copy of every rule, variance, order, or decision of the Board shall be filed with the City Clerk and shall be a public record.

40-11-5 **MEETING-QUORUM.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Zoning Board may determine. All board meetings shall be open to the public. The board may adopt their own rules of meeting procedures consistent with this Code and the applicable Illinois Statutes. The board may select such officers as it deems necessary. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board shall constitute a quorum, and the affirmative vote of at least **four (4) members** shall be necessary to authorize any board action. **(See Section 40-11-6 for vote on decisions of board.)**

40-11-6 **DECISIONS.** The concurring vote of **four (4) members** of the Board of Appeals shall be necessary to recommend a variance or special-use permit. The order of the Board of Appeals shall be by written letter and shall contain its findings of fact.

40-11-7 **PERIOD OF VALIDITY.** No decision granting a variance or special-use permit shall be valid for a period longer than **twelve (12) months** from the date of such decision unless (1) an application for a zoning certificate is obtained within such period and construction, moving, remodeling, or reconstruction is started, or (2) an occupancy certificate is obtained and a use is commenced. The Zoning Board may grant additional extensions of time not exceeding **one hundred eighty (180) days** each upon written application made within the initial **twelve (12) month** period without further notice or hearing, but said right to so extend said time shall not include the right to grant additional relief by expanding the scope of the variation.

40-11-8 **OFFICE OF THE SECRETARY OF THE BOARD OF APPEALS.** The Secretary of the Board of Appeals shall be appointed by the Board to serve until his successor is appointed. The Secretary or a designated person shall record the minutes of the Board's proceedings and actions, showing the vote to each member upon each question or if absent or failing to vote, indicating such fact. He shall perform such other duties as may be assigned from time to time by the Board.

40-11-9 - 40-11-10 **RESERVED.**

DIVISION II – APPEALS

40-11-11 APPEALS. Any person aggrieved by any decision or order of the Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Board of Appeals. Every such appeal shall be made and treated in accordance with Illinois law (**See 65 ILCS Sec. 5/11-13-12**) and the provisions of this Section.

40-11-12 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall also be filed with the **Soil and Water Conservation District** as per State law. Not more than **five (5) working days** after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. (**Note: Filing fee required**) (**See 70 ILCS Sec. 405/22.02A and 65 ILCS Sec. 5/11-13-12**)

40-11-13 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with him, that for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Board of Appeals or the Circuit Court grants a restraining order for due cause and so notifies the Administrator.

40-11-14 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

- (A) By first-class mail to the applicant and all owners of property abutting or adjacent to the property affected by the appeal; and
- (B) By publication in a newspaper of general circulation within the City.

40-11-15 ADVISORY REPORT, DECISION BY COUNCIL. Within a reasonable time after the public hearing, the Board of Appeals shall submit an advisory report to the Council. The Council shall make the final decision on the appeal at their next regularly scheduled meeting following submission of said report. The Council, by an ordinance passed by simple majority vote of all members then holding office, may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from the extent and in the manner that they deem appropriate.

NOTE: The applicant generally files a request for a variance, a special-use permit or an amendment instead of just an appeal.

40-11-16 RESERVED.

DIVISION III - SPECIAL-USE

40-11-17 SPECIAL USE PERMITS. This Code divides the City and surrounding territory into various districts, and permits in each district as a matter of right only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review, and may be allowed only by permission of the City Council.

40-11-18 APPLICATION. Every applicant for a special use permit shall submit to the Administrator, in narrative and/or graphic form, the items of information enumerated below. The Administrator shall prepare an advisory report on every request for a special use permit. He shall promptly transmit the completed application and his advisory report to the Board of Appeals. **(NOTE: Filing fee required.)**

ITEMS OF INFORMATION

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed structure or use, if different from (A);
- (C) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (D) Location of the proposed use or structure, and its relationship to existing adjacent uses or structures;
- (E) Area and dimensions of the site for the proposed structure or uses;
- (F) Existing topography of the site (USGS 10-foot contour data is acceptable) and proposed finished grade;
- (G) Existing and proposed screening, landscaping, lighting and erosion control features on the site, including the parking area;
- (H) Height and setbacks of the proposed structure;
- (I) Number and size of proposed dwelling units, if any;
- (J) Location and number of proposed parking/loading spaces and access ways;
- (K) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (L) Any other pertinent information that the Administrator may require.

40-11-19 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every special use permit application within a reasonable time after said application is submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed special use shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing;

- (A) By first class mail to applicant and all owners of property abutting or adjacent to the proposed Special-Use.
- (B) By publication in a newspaper of general circulation within the City.

40-11-20 ADVISORY REPORT, FACTORS CONSIDERED. Within a reasonable time after the public hearing, the Zoning Board of Appeals shall submit their advisory report to the Council. In deciding what their advice should be, the Board of Appeals shall consider the following factors:

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

(B) Whether the proposed special use is consistent with this municipality's comprehensive plan if any;

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

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

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

40-11-21 ACTION BY COUNCIL. The Council shall act on every request for a special use permit at their next regularly scheduled meeting following submission of the Board of Appeals' advisory report. Without further public hearing, the Council may grant a special use permit by an ordinance passed by simple majority vote of all members then holding office. In a separate statement accompanying any such ordinance, the Council shall state their findings of fact, and indicate their reasons for approving (with or without conditions) or denying the request for a special use permit.

40-11-22 - 40-11-23 RESERVED.

DIVISION IV – VARIANCES

40-11-24 VARIANCES. A variance is a relaxation of the requirements of this Code that are applicable to a particular lot, structure, or use. A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance, it is an amendment, and may be granted only as provided for in **Section 40-11-31.**

40-11-25 APPLICATION. Every application for a variance shall be filed with the Administrator on a prescribed form. Every variance application shall also be filed with the **Soil and Water Conservation District** as per State law. The Administrator shall promptly transmit said application, together with any advice he might wish to offer, to the Board of Appeals. The application shall contain sufficient information to allow the Board to make an informed decision and shall include, at a minimum, the following: **(NOTE: Filing fee in Sec. 40-9-7.) [See 65 ILCS Sec. 405/22.02(A)]**

- (A) Name and address of the applicant;
- (B) Location of the structure/use for which the variance is sought;
- (C) Relationship of said structures/use to existing structures/uses on adjacent lots;
- (D) Brief description of the problems/circumstances engendering the variance request;
- (E) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and
- (G) Any other pertinent information that the Administrator may require.

40-11-26 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on each variance request within a reasonable time after the variance application is submitted to them. At the hearing any interested party may appear and testify either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed variance shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

- (A) By first class mail to applicant and all owners of property abutting or adjacent to the proposed variance.
- (B) By publication in a newspaper of general circulation within the City. **(See 65 ILCS Sec. 5/11-13-6)**

40-11-27 STANDARDS FOR VARIANCES. The Board of Appeals shall not recommend nor shall the Council grant any variance unless, based upon the evidence presented to them, they determine that:

- (A) The proposed variance is consistent with the general purposes of this Code **(See Section 40-1-1);** and
- (B) Strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property; and
- (C) The proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property; and

(D) The plight of the applicant is due to peculiar circumstances not of his own making; and

(E) The variance, if granted, will not alter the essential character of the area where the premises in question are located.

40-11-28 ADVISORY REPORT, DECISION BY COUNCIL. Within reasonable time after the public hearing, the Board of Appeals shall submit an advisory report to the Council. The Council, by an ordinance passed by simple majority vote of all members then holding office, shall act on the requested variance at their next regularly scheduled meeting following submission of the Board of Appeals advisory report. In accordance with State Law **(65 ILCS Sec. 5/11-13-11)**, the Council shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Council's reasons for granting or denying any requested variance.

40-11-29 - 40-11-30 RESERVED.

DIVISION V – AMENDMENTS

40-11-31 AMENDMENTS. The Council may amend this Code in accordance with State law and the provisions of this Section. Proposed alterations of district boundaries or proposed changes in the status of uses (permitted, special, prohibited) shall be deemed proposed amendments. Amendments may be proposed by the Council, the Administrator, the Board of Appeals, the Planning Commission, or any party in interest. **(See 65 ILCS Sec. 5/11-13-14)**

40-11-32 FILING. Every proposal to amend this Code shall be filed with the Administrator on a prescribed form. Every amendment proposal shall also be filed with the **Soil and Water Conservation District** as per **Illinois Compiled Statutes, Ch. 70, Sec. 405/22.02(A)**. The Administrator shall promptly transmit said proposal, together with any comments or recommendation he may wish to make, to the Board of Appeals for a public hearing. **(NOTE: Filing fee required in Section 40-9-7)**

40-11-33 PUBLIC HEARING - NOTICE. The Zoning Board of Appeals shall hold a public hearing on every amendment proposal within a reasonable time after said proposal has been submitted to them. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing:

(A) When the amendment involves a rezoning, not a text amendment, by first class mail to applicant and all owners of property abutting or adjacent to the proposed Amendment. **(Ord. No. 890; 08-05-97)**

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

40-11-34 ADVISORY REPORT - FINDINGS OF FACT. Within a reasonable time after the public hearing, the Board of Appeals shall submit their advisory report to the City Council. The report shall state the Board of Appeals' recommendations regarding adoption of the proposed amendment, and their reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

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

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

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

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

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

40-11-35 ACTION BY COUNCIL. The Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Board of Appeals' advisory report. Without further public hearing, the Council may pass any proposed amendment or may refer it back to the Board of Appeals for further consideration by simple majority vote of all the members then holding office.

40-11-36 WHEN TWO-THIRDS MAJORITY VOTE IS REQUIRED. The favorable vote of at least **two-thirds (2/3)** of the members of the City Council is required to pass an amendment to this Code in each of the following instances:

(A) When passage would be contrary to the recommendations of the Plan Commission.

(B) When the amendment is opposed, in writing, by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered. **(See 65 ILCS Sec. 5/11-1314)**

40-11-37 NOTICE TO APPLICANT OF WRITTEN PROTEST. In cases of written opposition to an amendment of this Code as prescribed in **Section 40-11-36**, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment. **(See 65 ILCS Sec. 5/11-13-14)**