

ZONING ORDINANCE OF
THE CITY OF CHESTER, ILLINOIS

On **May 1, 1991**, the corporate authorities of the City of Chester, Illinois, adopted and enacted a **Revised Code of Ordinances** per **Ordinance No. 994**.

The following is the Zoning Ordinance as contained and set forth as **Chapter 40** of said **Revised Code of Ordinances**.

Amendments prior to **May 1, 1991**, are contained and integrated within this **Chapter 40**.

CHAPTER 40

ZONING CODE

ARTICLE I GENERAL PROVISIONS

4011 PURPOSE. In accordance with State Law, **Illinois Compiled Statutes, Chapter 65, Section 5/11131, 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 communitywide social and economic benefits while accommodating the particular needs of all residents, and to discourage development on inappropriate sites;

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

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

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

(E) to 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

(F) to provide for the efficient administrative and fair enforcement of all the substantive regulations set forth herein.

4012 JURISDICTION. This Code shall be applicable within the Corporate Limits of the City and within all territory located in Illinois within **one (1) mile** of said limits, provided such territory is not located within the zoning jurisdiction of another municipality. **(65 ILCS 5/11131)**

4013 INTERPRETATION; CONFLICT WITH OTHER CODES. Every provision of this Zoning Code shall be construed liberally in favor of the City, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Chapter differ from the requirements of any other lawfully adopted and effective code, ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

4014 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 Chapter. **(See "Local Governmental and Governmental Employees Tort Immunity Act," Ill. Comp. Stats., Ch. 745; Sec. 10/1101.)**

(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 Chapter, shall be defended by the City Attorney until the final determination of the legal proceedings.

4015 SEPARABILITY. If any provision of this Chapter is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Chapter.

ARTICLE II DEFINITIONS

4021 CONSTRUCTION OF TERMS. In construing the intended meaning of terminology used in this Chapter, the following rules shall be observed:

(A) Words and phrases shall have the meaning respectively ascribed to them in **Section 4022** unless the context clearly indicates otherwise; terms not defined in this Chapter shall have their standard English dictionary meanings.

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

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

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

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

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

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

4022 SELECTED DEFINITIONS.

"ABUTTING". As applied to lots, "abutting" means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley, or other public right-of-way.

"ACCESS WAY". A curb cut, ramp, driveway, or other means for providing vehicular access to an offstreet parking or loading area.

"ACCESSORY USE". Any structure or use that is:

(A) subordinate in size or purpose to the principal structure or use which it serves;

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

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

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

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

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

"ALLEY". A public rightofway, which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

"ALTER". To change the size, shape, or use of a structure.

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

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

"BLOCK". 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 rightsofway, waterways, or corporate boundary lines.

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

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

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

"BUILDING LINE". The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street rightofway line.

"CERTIFICATE OF ZONING COMPLIANCE (INITIAL)". A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Chapter and may, therefore, proceed.

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

"CITY". The City of Chester, Illinois.

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

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

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

"CONFORMING". In compliance with the applicable provisions of this Chapter.

"CONVENIENCE SHOP". A small retail commercial or service establishment offering goods/services primarily to the residents of a particular multiplefamily complex, mobile home park, or similar development.

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

"DAY CARE CENTER". See "Nursery School".

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

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

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

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

"DRIVEWAY". A minor way commonly providing vehicular access to a garage or offstreet parking area.

"DWELLING". A building or portion thereof designed or used primarily as living quarters for **one (1)** or more families, but not including hotels, motels, or other accommodations for the transient public.

"DWELLING, MULTIPLEFAMILY". A building or portion thereof containing **three (3)** or more dwelling units.

"DWELLING, SINGLEFAMILY". A dwelling containing one dwelling unit and intended for the occupancy of **one (1) family**.

"DWELLING, TWOFAMILY". A dwelling containing two dwelling units.

"DWELLING UNIT". **One (1)** or more rooms designed or used as living quarters by **one (1) family**. A "dwelling unit" always includes a bathroom and a kitchen.

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

"ENCLOSED". As applied to a building, "enclosed" 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". 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". To build, construct.

"ESTABLISHMENT". Either of the following:

(A) an institutional, business, commercial, or industrial activity that is the sole occupant of **one (1)** or more buildings; or

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

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

"EXISTING". Actually constructed or in operation on the effective date of this Chapter.

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

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

"FRONTAGE". The lineal extent of the front (streetside) of a lot.

"GREENHOUSE". See "Nursery".

"HEREAFTER". Any time after the effective date of this Chapter.

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

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

"IMMOBILIZE". As applied to a mobile home, "**immobilize**" means to remove the wheels, tongue, and hitch and/or to place on a permanent foundation.

"INTERSECTION". The point at which **two (2)** or more public rightsofway (generally streets) meet.

"JUNK YARD". 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, plastics, rags, and tires. A lot on which **three (3) or more inoperable vehicles** are stored shall be deemed a "**junk yard**".

"KENNEL". An establishment where animals are maintained for boarding, training or similar purposes for a fee or compensation; or an establishment which sells, offers to sell, exchange or offers for adoption with or without charge animals which the establishment has produced or raised. **(Ord. No. 974; 030190)**

"LOADING SPACE". An offstreet space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

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

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

"LOT, THROUGH". A lot having a pair of approximately parallel lot lines that abut **two (2) streets** which are approximately parallel streets. Both such lot lines shall be deemed front lot lines.

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

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

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

"LOT LINE, FRONT". The lot boundary abutting the street.

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

"LOT LINE, SIDE". Any boundary of a lot which is not a front lot line or a rear lot line.

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

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

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

"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 or subsequent 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**; provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a **"mobile home"**, but shall be an **"immobilized mobile home"**. A mobile home would not be confused with a camping trailer or recreational vehicle. **(Ord. No. 974; 0301-90)**

"MOBILE HOME, DOUBLEWIDE" consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site. **(Ord. No. 974; 030190)**

"MOBILE HOME MODULE" means a factoryfabricated building unit transported to a building site, mounted on a permanent foundation supporting the outside perimeter walls, and is designed for residential use. **(Ord. No. 974; 030190)**

"MOBILE HOME PARK". A parcel in single ownership/control, developed with facilities for accommodating occupied mobile homes in compliance with all rules, regulations and statutes as set forth in current **Illinois Compiled Statutes. (Ord. No. 974; 0301-90)**

"MOBILE HOME STAND". The part of a mobile home space beneath the mobile home which includes the concrete slab or runners on which the home is placed.

"NONCONFORMING". As applied to a lot, structure, or use, **"nonconforming"** means:

(A) Lawfully existing on the effective date of this Chapter, but

(B) Not in compliance with the applicable provisions thereof.

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

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

"NURSERY SCHOOL". An establishment for the parttime care and/or instruction at any time of the day of **four (4) or more unrelated children** of preelementary school age.

"NURSING HOME". A building used as a medical care facility for persons who need longterm nursing care and medical services, but do not require intensive hospital care.

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

"PARKING AREA/LOT, OFFSTREET". Land that is improved in accordance with this Chapter and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An **"offstreet parking area"**, depending on the circumstances of its use, may be either a principal use or an accessory use.

"PARKING SPACE, OFFSTREET". An area at least **twenty (20) feet long and ten (10) feet wide** within an offstreet parking area or garage, used for the storage of **one (1) passenger motor vehicle**.

"PERMITTED USE". Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

"PERSON". Any individual, firm, association, organization, or corporate body.

"PLAN COMMISSION". The City Plan Commission.

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

"PREMISES". A lot and all the structures and uses thereon.

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

"PROPERTY LINE". See "Lot Line".

"RECONSTRUCT". As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.

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

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

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

"RIGHTOFWAY, PUBLIC". A strip of land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys.

"SERVICE USE/ESTABLISHMENT". Any use or establishment wherein services are provided for remuneration either to individuals or to other firms.

"SETBACK". The distance between the front lot line and the building line; or between a side or rear lot line and that side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

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

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

"SPECIALUSE PERMIT". A permit issued in accordance with the provisions of this Chapter to regulate the development/operation of a special use.

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

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

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

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

"STRUCTURE". 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.

"STRUCTURE, TEMPORARY". Any structure that is not attached to a permanent foundation.

"SUPPORTIVE LIVING FACILITY/ASSISTED LIVING FACILITY". A facility consisting of a building or buildings containing multiple dwelling units (the kitchen of such dwelling units may contain limited or full cooking facilities) and other rooms such as a cafeteria/dining room, meeting room, etc. and which provides supportive services to the people residing therein such as activities, medication set-up, cleaning services, laundry services, meals, assistance with medications and such other support services that will allow the people to remain independent. A Supportive Living Facility/Assisted Living Facility is not a nursing home. **(Ord. No. 1343; 12-05-05)**

"TEMPORARY USE PERMIT". A permit issued in accordance with the provisions of this Chapter and valid for not more than **one (1) year**, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

"TOPOGRAPHY". The relief features or surface configuration of an area.

"USE". The purpose or activity for which land or a structure thereon is designed, occupied, or used.

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

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

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

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

"YARD". Open space that is unobstructed except as specifically permitted in this Chapter and that is located on the same lot as the principal building.

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

"YARD, REAR". A yard which is bounded by side lot lines and the rear yard line.

"YARD, SIDE". A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

"YARD LINE". A line in a lot that is parallel to the lot line along which the 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 MAP". The map(s) and any amendments thereto designating zoning districts, and incorporated into this Chapter by reference.

ARTICLE III

GENERAL ZONING REGULATIONS

4031 ESTABLISHMENT OF DISTRICTS. In order to implement the regulatory scheme of this Chapter so as to achieve the objective enumerated in **Section 4011**, the City and surrounding territory is hereby divided into the following Zoning Districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM ZONE DISTRICT AREA</u>
Agricultural	A	3 acres
SingleFamily Residential	R1	1 acre
General Residential	R2	1 acre
Mobile Home	R3	1 acre
Commercial	C	1 acre
Industrial	I	1 acre

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 areas of numerous noncontiguous parcels, when aggregated, happen to equal or exceed the minimum area indicated above.

4032 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. The map, including all notations and other information thereof, is hereby made a part of this Chapter by reference. The Official Zoning Map shall be kept on file in the Administrator's Office.

4033 ANNUAL PUBLICATION. In accordance with State law, if any changes are made in the Zoning Districts or regulations during a calendar year, the Administrator shall publish the revised official map **not later than March 31st** of the following year.

4034 DETERMINING TERRITORY OF DISTRICTS WITH PRECISION. In determining with precision what territory is actually included within any zoning district, the Administrator shall apply the following rules:

(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 center line. |
| (2) | Lot line | such lot line. |
| (3) | Railroad tracks | right of way line
of such tracks. |
| (4) | Stream | center of such stream. |
| (5) | Section lines, fractional
lines, survey lines | such lines. |

(B) Whenever any street, alley, or other public way is legally vacated, the Zoning Districts adjoining each side of such vacated public way shall automatically extend to the new property line established by said vacation and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts.
(Ord. #974; 031990)

4035 ANNEXED TERRITORY. Upon the effective date of this Chapter, whenever any territory is annexed to the City, the City Council shall determine its district classification at the time of annexation.

4036 GENERAL PROHIBITION. Hereafter, within the zoning jurisdiction of the City, 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 provisions of this Chapter.

4037 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 Chapter in accordance with **Section 4094**. 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.

4038 TEMPORARY USES. Except as specifically provided otherwise in this Chapter, no temporary structure shall be used or occupied for any purpose and

no lane shall be used for any temporary enterprise unless a temporary use permit has been obtained. No temporary use permit shall be valid for more than **one (1) year** unless it is properly renewed. **(See Section 4093)**

4039 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise elsewhere in this Chapter, 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.

40310 ACCESS REQUIRED. No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to a public or a private street.

40311 FRONT SETBACKS CORNER/THROUGH LOTS. Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

40312 FRONT SETBACKS IN CERTAIN BUILTUP AREAS. Except as specifically provided otherwise, in all residential Zoning Districts where lots having **fifty percent (50%)** or more of the frontage on **one (1) side** of a street between intersections (that is, in **one (1) 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 setbacks on that block shall be the average of the existing front setbacks; provided, however, that in any builtup area; no front setback greater than **fifty (50) feet** shall be required.

40313 INTRUSIONS INTO YARDS. To the extent indicated below, the following feature of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<u>FEATURE</u>	<u>MAXIMUM INTRUSION</u>
(A) Cornices, chimneys, planters, or similar architectural features:	2 feet
(B) Fire escapes	4 feet
(C) Patios	NO LIMIT
(D) Porches, if unenclosed and at ground level	6 feet

- (E) Balconies 4 feet
- (F) Canopies, roof overhangs 4 feet

40314 **EXCEPTIONS TO HEIGHT LIMITS.**

(A) **Necessary Appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, and 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 codes.

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

40315 **SEWERS AND 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 City sewerage system is reasonably available (that is, whenever the distance from one or more property lines of the property in question to the nearest public sewer with available capacity does not exceed **two hundred (200) 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, as defined in Paragraph (A) above, a private sewerage system shall be installed and used. All private sewerage systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act, Illinois Compiled Statutes, Chapter 225, Sections 225/1 through 225/23, as amended from time to time; and
- (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; and
- (3) pertinent, current regulations issued by the Illinois Environmental Protection Agency.

The Administrator shall not issue any initial Certificate of Zoning Compliance unless he is satisfied that these requirements will be met.

40316 **ACCESSORY USES.** Any accessory use shall be deemed permitted in a particular Zoning District if such use:

- (A) meets the definition of "accessory use" found in **Section 4022**;

(B) Is accessory to a principal structure or use that is allowed in a particular Zoning District as a permitted or special use; and

(C) Is in compliance with the restrictions set forth in **Section 40317**.

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

40317 **ACCESSORY USE RESTRICTIONS.**

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

(1) **fifteen (15) 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 yard (front, side, or rear) 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 the City.

ARTICLE IV

REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I "A" AGRICULTURAL DISTRICT

4041 "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 road, utilities, and storm water drainage systems would be impractical or burdensomely expensive to the taxpaying public.

4042 AGRICULTURAL EXEMPTION. The provisions of this Chapter shall not be exercised so as to impose regulations with respect to land used 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 for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes shall be required to conform to building setback lines. In the event that the land ceases to be used solely for agricultural purposes, then and only then, shall the provisions of this Chapter apply.

4043 LOT AND BUILDING REQUIREMENTS. Every principal building erected in the "A" District shall conform to the following requirements:

- | | | |
|-----|---|----------|
| (A) | Minimum Lot Area. | 3 acres |
| (B) | Minimum Lot Width.
(at the established building line) | 250 feet |
| (C) | Minimum Lot Depth. | 250 feet |
| (D) | Minimum Setbacks. | |
| | (1) From front lot line | 50 feet |
| | (2) <u>Side yards:</u> | |
| | Minimum total setback from
both side lot lines: | 25 feet |
| | Minimum setback from either side lot line: | 10 feet |
| | (3) From rear lot line: | 50 feet |

4044 SPECIAL RESTRICTIONS.

One Dwelling Per Lot. In the "A" District, not more than **one (1) dwelling** shall be erected on any lot.

4045 PERMITTED USES.

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 4052** are met.

Cemeteries.

Government uses of the City.

Nurseries, greenhouses, temporary produce stands.

Parks, playgrounds.

TwoFamily Dwellings.

Mobile Homes (immobilized).

SingleFamily Dwellings.

Accessory uses in accordance with **Section 40316.**

4046 SPECIAL USES.

Agricultural implements 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 the City.

Home occupations.

Hospitals, nursing homes, sanitariums.

Institutions such as convents, retreat houses, seminaries, etc.

Kennels, commercial.

Stables, commercial.

Utility substations.

4047 RESERVED.

DIVISION II

"R1" SINGLEFAMILY RESIDENTIAL DISTRICT

4048 PURPOSE. The "R1" SingleFamily Residential District encompasses those areas which are primarily developed with or planned for conventionallyconstructed singlefamily dwellings. Other types of residences mobile homes, duplexes, apartments, etc. are strictly prohibited in this district.

4049 SPECIAL RESTRICTIONS.

(A) **One Principal Building Per Lot.** In the "R1" District, only **one (1)** principal building shall be erected on any lot.

(B) **No Mobile Homes.**

(1) No mobile home shall be brought into or placed **anywhere** in the "R1" District.

(2) Existing mobile homes in the "R1" District shall be immobilized in accordance with **Section 40425. (Ord. No. 974; 030190)**

(C) It shall be lawful to replace or upgrade any existing mobile home located in the "R1" District; however, current owners of immobilized mobile homes, doublewides or module homes within the "R1" District shall be permitted to replace or upgrade same. **(Ord. No. 974; 030190)**

40410 LOT AND BUILDING REQUIREMENTS.*

- (A) **Minimum Lot Area.** 8,000 square feet
- (B) **Minimum Lot Width.** (at established building line)80 feet
- (C) **Minimum Lot Depth.** 100 feet
- (D) **Minimum Setbacks.**
 - (1) From front lot line: 25 feet
 - (2) From either side lot line: 10 feet
 - (3) From rear lot line: 25 feet
- (E) **Maximum Building Height.** 35 feet

* **Applies to principal building. (Ord. No. 974; 030190)**

40411 PERMITTED USES.

Government uses of the City.

SingleFamily Dwellings.

Accessory uses in accordance with **Section 40316.**

40412 SPECIAL USES.

Churches and related religious facilities.

Government uses other than those of the City.

Home occupations, but only in conformity with the requirements of **Section 4054.**

Schools.

Utility substations.

40413 RESERVED.

DIVISION III

"R2" GENERAL RESIDENTIAL DISTRICT

40414 **PURPOSE.** The "R2" General Residential District is intended to accommodate a wide variety of housing types and related educational, religious, and recreational facilities.

40415 **SPECIAL RESTRICTIONS.**

(A) **One Single or Two Family Dwelling Per Lot.** In the "R2" District, not more than **one (1)** singlefamily dwelling or duplex may be erected on one lot.

(B) **No Mobile Homes.**

- (1) No mobile home shall be brought into or placed anywhere in the "R2" District, but double-wides and module structures are permitted.
- (2) Existing mobile homes in the "R2" District shall be immobilized in accordance with **Section 40425.**
- (3) It shall be lawful to replace or upgrade any existing mobile home located in the "R2" District. **(Ord. No. 974; 030190)**

40416 **LOT AND BUILDING REQUIREMENTS.***

(A) **Minimum Lot Area.** 6,000 square feet or 2,500 square feet per unit, whichever is greater. That is, a one or twofamily unit must occupy at least a 6,000 square foot lot. A threefamily unit must occupy at least a 7,500 square foot lot and so forth.

(B) **Minimum Lot Width.**
(at established building line) 50 feet

(C) **Minimum Lot Depth.** 100 feet

(D) **Minimum Setbacks.**
(1) From front lot line: 25 feet
(2) From either side lot line: 5 feet
(3) From rear lot line: 25 feet

(E) **Maximum Building Height.** 35 feet

40417 PERMITTED USES.

Agriculture, including all uses commonly classified as such, provided the requirements of **Section 4052** are met.

Churches and related religious facilities.

Government uses of the City.

Multiple Family Dwellings.

Schools.

Single Family Dwellings, any type.

Accessory uses in accordance with **Section 40316.**

Bed and Breakfast Establishments.

(Ord. No. 974; 030190)

* **Applies to principal building.**

40418 SPECIAL USES.

Convenience shops.

Day Care Centers.

Government uses other than those of the City.

Home occupations, but only in accordance with **Section 4054.**

Nursing homes.

Supportive Living Facility/Assisted Living Facility. **(Ord. No. 1343; 12-05-05)**

Utility substations.

40419 40-420 RESERVED.

DIVISION IV

"R3" MOBILE HOME DISTRICT

40421 **PURPOSE.** The "R3" Mobile Home District is primarily intended to provide areas suitable for the placement of mobile homes on individual lots and for the establishment of mobile home parks. This district is also intended to preserve all other residential districts for conventionally constructed dwellings.

40422 **LOT AND BUILDING REQUIREMENTS.** All principal buildings shall meet the following requirements: **(Exception: Mobile home park requirements are set forth in Section 40426.)**

- | | | |
|-----|---|-------------------|
| (A) | Minimum Lot Area. | 5,000 square feet |
| (B) | Minimum Lot Width.
(at established building line) | 50 feet |
| (C) | Minimum Lot Depth. | 100 feet |
| (D) | Minimum Setbacks. | |
| | (1) From front lot line: | 25 feet |
| | (2) From either side lot line: | 5 feet |
| | (3) From rear lot line: | 20 feet |
| (E) | Maximum Building Height. | 35 feet |

40423 **PERMITTED USES.**

Any use permitted in the "R2" General Residential District. **(See Section 40417)**
Mobile homes on individual lots, provided said mobile homes conform to all applicable requirements of this Division.

40424 **SPECIAL USES.**

Any use that is a special use in the "R-2" General Residential District. **(See Section 40418)**
Mobile home parks in conformity with all applicable requirements of this Division.

40425 **MOBILE HOMES ON INDIVIDUAL LOTS.**

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

(B) **Stand.** Every mobile home shall be placed on a stand to provide adequate support in accordance with existing State regulations. **(Ord. No. 974; 030190)**

(C) **Anchors.** Anchors capable of withstanding a vertical tension force of **four thousand eight hundred (4,800) pounds** shall be installed at the corners of every mobile home stand, or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors.

(D) **Skirting.** Every mobile home shall be skirted with fireresistant material. The skirting shall be equipped with an inspection door at least **twenty-four (24) inches wide** to allow access to the underside of the home.

40426 **MOBILE HOME PARKS.** Mobile home parks shall comply with all requirements of the State's "**Mobile Home Regulations**"; provided, that in case of conflict between any of said regulations and any provision of this Code, the provision of this Chapter shall prevail. **(Ord. No. 974; 030190)**

40427 **RESERVED.**

DIVISION V – "C" COMMERCIAL DISTRICT

40428 **PURPOSE.** The "C" Commercial District encompasses both the long established and newer commercial areas where a wide range of goods and services is offered to the general public at retail or wholesale.

- 40429** **NO MOBILE HOMES.**
- (A) No mobile home shall be brought into or placed anywhere in the "C" District.
 - (B) Existing mobile homes shall be immobilized in accordance with **Section 40425.**
 - (C) It shall be unlawful to replace any existing mobile home located in the "C" District. **(Ord. No. 974; 030190)**

40430 **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 and/or wastes, excessive glare, and noxious odors, or any actions which promotes or encourages vagrancy and/or homelessness in the district including shelters, "tent cities," and/or provisions to aid in the furtherance of vagrancy. **(Ord. No. 1816; 050624)**

40431 **LOT AND BUILDING REQUIREMENTS.**

- (A) **Minimum Lot Area.** None
- (B) **Minimum Lot Width.**
(at established building line) 30 feet
- (C) **Minimum Lot Depth.** None
- (D) **Minimum Setbacks.** Generally, none required except as necessary to comply with applicable off-street parking and loading requirements. However, any lot that abuts any residential district shall meet the front setback and side setback (on the side abutting the residential use) requirements of such residential district.

(E)	<u>Maximum Building Height.</u>	60 feet
(F)	<u>Buffer Area.</u>	On lots abutting an "R" District, there shall be provided a proper planting strip as determined by the Zoning Administrator, planted with trees and shrubs which will provide a dense screen at maturity. (Ord. No. 974; 03-01-90)

40432 PERMITTED USES.

Churches.
Clubs and lodges.
Commercial establishments, wholesale and retail.
Government uses of the City and other units.
Medical/dental clinics.
Multiplefamily dwellings.
Offices.
Service establishments.
Singlefamily dwellings.
Supportive Living Facility/Assisted Living Facility. **(Ord. No. 1343; 12-05-05)**
Accessory uses in accordance with **Section 40316.**

40433 SPECIAL USES.

Utility substations.
Mobile homes (immobilized).

40434 RESERVED.

DIVISION VI – "I" INDUSTRIAL DISTRICT

40435 **PURPOSE.** 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.

40436 **NO MOBILE HOMES.**
(A) No mobile home shall be brought into or placed anywhere in the "I" District.
(B) Existing mobile homes shall be immobilized in accordance with **Section 40425.**
(C) It shall be unlawful to replace any existing mobile home located in the "I" District. **(Ord. No. 974; 030190)**

40437 **USE RESTRICTIONS.**
(A) **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 and/or wastes, excessive glare, and noxious odors. **(Ord. No. 974; 030190)**

(B) **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 chainlink), including gates, at least **eight (8) feet high.**

(C) **Buffer Area.** On lots abutting an "R" District, there shall be provided a proper planting strip as determined by the Zoning Administrator, planted with trees and shrubs which will provide a dense screen at maturity. **(Ord. No. 974; 030190)**

40438 **LOT AND STRUCTURE REQUIREMENTS.**

- | | | |
|-----|--------------------------------|--------------------|
| (A) | Minimum Lot Area. | 20,000 square feet |
| (B) | Minimum Lot Width. | 125 feet |
| | (at established building line) | |
| (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

40439 PERMITTED USES. Provided all the use restrictions of this district (See Section 40437) 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 transportation facilities.

Government uses of the City and other units.

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

Service stations.

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

40440 SPECIAL USES. Provided all the use restrictions of this District (See Section 40437) are observed, the following uses may be allowed by specialuse permit:

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

Junk yards, but only in accordance with **Section 4056.**

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

40441 TEMPORARY USE.

Mobile homes.

ARTICLE V

SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

4051 APPLICABILITY OF ARTICLE. This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome structures and uses. These regulations apply in every Zoning District where the specific structure or use is permitted or allowed by specialuse permit; but if more stringent regulations are applicable in any particular district, such regulations shall prevail.

4052 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 located on an adjacent lot or closer than **two hundred (200) feet** to any lot line of another person's 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 located on an adjacent lot or closer than **two hundred (200) feet** to any lot line of another person's residential property, whichever distance is greater.

(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 located on an adjacent lot or closer than **two hundred (200) feet** to any lot line of another person's 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 another person's residential property.

4053 FENCES WALLS.

(A) In connection with agricultural uses, barbed wire and electricallycharged fences are permitted.

(B) In connection with nonagricultural uses, barbed wire and electricallycharged fences may be allowed by specialuse permit after a public hearing.

(1) No fence, wall, or other obstruction shall be erected within any public rightofway, except by written permission of the proper authority.

- (2) No fence, wall, or other obstruction shall be erected in violation of the current Illinois Drainage Code. **(Ill. Comp. Stats., Ch. 70, Secs. 605/21 through 605/212)**
- (3) Every fence, wall, or other obstruction shall conform to the special height restrictions applicable in areas near intersections. **(See Sec. 40314) (Ord. No. 974; 031990)**

4054 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 (1)** 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 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 VI.**

(G) **Signs.** A home occupation shall display only **one (1)** identification/ advertising sign. The area of said sign shall not exceed **six (6) square feet.**

4055 HOSPITALS NURSING HOMES.

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

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

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

4056 JUNK YARDS.

(A) 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.

(B) All vehicles, parts, and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closelyplanted shrubbery at least **ten (10) feet** high and of sufficient density to block the view from adjacent property.

4057 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.

40-5-8 PRIVATE SWIMMING POOLS. Private swimming pools should:

(A) be appurtenant to a dwelling.

(B) meet yard depth and width requirements for principal buildings in the district in which they are located.

(C) be adequately fenced or the property on which it is located should be adequately fenced to prevent access of children and pets.

(D) meet all applicable health and sanitary requirements. **(Ord. No. 974; 031990)**

ARTICLE VI

OFFSTREET PARKING AND LOADING

4061 APPLICABILITY OF ARTICLE. Offstreet parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Chapter.

4062 EXISTING PARKING/LOADING FACILITIES.

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

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

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

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

4063 PARKING LOT STANDARDS. All offstreet parking lots shall conform to the standards indicated in the subsections below:

4063.1 SPACES. Each required offstreet parking space shall be at least **ten (10) feet** wide and **twenty (20) feet** long, and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public rightofway.

4063.2 INTERIOR AISLES. Aisles within parking lots shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles, and into and out of the parking spaces.

Aisles designated for twoway traffic shall be at least **twenty-two (22) feet** wide. Oneway aisles designated for **sixty degrees (60°)** parking shall be at least **eighteen (18) feet** wide.

4063.3 ACCESSWAYS.

(A) Parking lots shall be designed so that ingress to or egress from a parking space is from an aisle or driveway, not directly from the public rightofway.

(B) No accessway to any parking lot shall be located within **thirty (30) feet** of any corner formed by the intersection of the rightsofway of **two (2)** or more streets. At intersections where trafficcontrol devices are installed, the Administrator may increase this requirement as necessary to prevent hazards.

(C) Parking area accessways and public streets shall be aligned to form as closely as possible right angles.

(D) The accessway to every parking lot containing **sixteen (16)** or more parking spaces shall be at least **twenty-four (24) feet** wide unless **two (2)** oneway drives, each **twelve (12) feet** wide, are provided. The accessway to any parking lot containing fewer than **sixteen (16) parking spaces** shall be at least **twelve (12) feet** wide.

4063.4 SURFACING. Parking lots shall be graded and improved with a compacted stone base at least **four (4) inches** thick.

4064 LOCATION OF OFFSTREET PARKING.

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

(B) **For Commercial/ Industrial Uses.** In the Commercial or Industrial Districts, offstreet parking facilities for different buildings or uses may be provided collectively; but only if the total number of spaces so located together is not less than the sum of the separate requirements for each use. **(See Section 4067)**

4065 COMPUTATION OF REQUIRED PARKING SPACES. In computing the number of parking spaces required by this Chapter, the Administrator shall apply the following rules:

(A) In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. **"Employee parking" means "one parking space shall be required per one and one half (1.5) employees,"** unless otherwise stated.

(B) In computing parking space requirements on the basis of building floor area, the gross floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **three hundred fifty (350) square feet** of gross area shall be deemed **one (1) parking space**.

(D) If computation of the number of parking spaces required by this Chapter results in a fractional space, any fraction of **onehalf (1/2)** or more shall be counted as **one (1) space**.

(E) No space or portion thereof needed to satisfy the minimum applicable requirement for number of offstreet parking spaces shall be counted as part of the offstreet parking spaces required for another structure or use.

4066 DESIGN AND LOCATION OF OFFSTREET LOADING FACILITIES. If provided, all offstreet loading facilities shall conform to the minimum standards indicated below:

(A) **Size of Space.** Every offstreet loading space shall be at least **twelve (12) feet** wide and sufficiently long to accommodate the type of vehicle expected to use the space. In no case shall a vehicle being loaded or unloaded overhang into the public right ofway.

(B) **AccessWay.** Every offstreet loading space shall have a safe means of vehicular access to a street or alley. Such accessway shall be at least **twelve (12) feet** wide.

(C) **Surfacing.** Every offstreet loading area shall be improved with a compacted stone base at least **seven (7) inches** thick.

4067 NUMBER OF PARKING SPACES REQUIRED. Offstreet parking spaces shall be provided as indicated in the table below. For any use that is not listed in the table, the same number of parking spaces shall be provided as is required for the most similar listed use. The Administrator shall make the determination of similarity.

USE	PARKING SPACES REQUIRED
<u>DWELLINGS, LODGINGS:</u>	
Hotels, motels, boarding houses, lodges	1 space per lodging unit plus employee parking
Mobile Homes	2 spaces per mobile home
Multifamily dwellings	
1 Bedroom or less	1.5 spaces per dwelling unit
2 or more Bedrooms	2 spaces per dwelling unit

USE	PARKING SPACES REQUIRED
<u>EDUCATIONAL, INSTITUTIONAL, RECREATIONAL:</u>	
Singlefamily and two-family dwellings	2 spaces per dwelling unit
Churches	1 space per 4 seats in the largest seating area
Hospitals	1 space per 2 beds, plus employee parking
Libraries, museums	1 space per 500 square feet of floor area
Nursing homes	1 space per 5 beds
Schools:	
Elementary and junior high	1 space for every 20 students that the building is designed to accommodate, plus employee parking
Senior High	1 space for every 4 students over 16 years old that the building is designed to accommodate, plus employee parking
Supportive Living Facility/Assisted Living Facility	1 space for every 2 dwelling units and employee parking of 1 space per every employee per shift. Additional parking spaces may be required by the Administrator upon review. (Ord. No. 1343; 12-05-05)
<u>COMMERCIAL, OFFICE, SERVICE:</u>	
NOTE: All commercial, service or office uses, unless Specifically indicated otherwise below:	1 space per 300 square feet of floor area.
Banks, savings and loans	
Walkin	1 space per 300 square feet of floor area, plus employee parking
Drivein	5 spaces per teller window

USE	PARKING SPACES REQUIRED
<u>COMMERCIAL, OFFICE, SERVICE:</u> (CONTINUED)	
Beauty and Barber shops	2 spaces per chair, plus employee parking
Furniture and appliance stores	1 space per 600 square foot of floor area
Home occupations	1 space per 150 square feet of floor area devoted to the home occupation in addition to the parking requirements for the dwelling
Offices, medical/dental	1 space per 200 square feet of floor area or 3 spaces per professional, whichever is greater
Mortuaries	1 space per 5 seats, plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room
Restaurants, refreshment stands:	
Sitdown	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater
Drivein	1 space per 25 square feet of building floor area
Service Stations	2 spaces per service stall, plus employee parking
Taverns	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater

USE	PARKING SPACES REQUIRED
<u>COMMERCIAL, OFFICE, SERVICE:</u> (CONTINUED)	
Theatres:	
Indoor	1 space per 4 seats in the largest seating area
Drivein	On review by the Administrator
Vehicles sales (autos, boats, trailers, etc.)	1 space per 600 square feet of enclosed floor area, plus 1 space per 2,500 square feet of open lot area

ARTICLE VII NONCONFORMITIES

4071 PURPOSE OF ARTICLE. The requirements imposed by this Chapter 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.

4072 NONCONFORMING LOTS. Any vacant lot that does not conform to **one (1)** 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 County Recorder of Deeds Office prior to the enactment of this Chapter (or pertinent amendment thereto); and
- (B) is at least **thirty (30) feet** wide.

4073 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 Chapter, 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 Chapter, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Chapter.

4074 NONCONFORMING STRUCTURES. Any otherwise lawful structure which exists on the effective date of this Chapter, but which could not be erected under the terms of this Chapter 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) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.
- (B) **Enlargement Alterations.** A nonconforming structure may be enlarged and/or altered, provided that:

- (1) such enlargement and/or alteration is confined within the lot lines of the property in question as such lot lines existed on the effective date of this Chapter; and
- (2) such enlargement and/or alteration does not increase or worsen the nonconforming characteristics of the structure.

(C)

Reconstruction.

- (1) Any building or structure which is damaged by explosion, fire, flood, wind or other Act of God or man to the extent of **one hundred percent (100%)** or more of its fair market (sales) value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this Code. In the event the Building Inspector'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 Planning Commission.
- (2) Any building or structure which is damaged less than **one hundred percent (100%)** may be rebuilt, provided that reconstruction commences within **one (1) year** from the date of damage and is diligently pursued to completion and the structure, when reconstructed, will not be more nonconforming than it had been.
- (3) If reconstruction does not commence within **one (1) year** or is not diligently pursued to completion (as determined by the Zoning Administrator), the damaged structure shall be considered abandoned in which case reconstruction shall be allowed only if the structure will be rebuilt in conformity with the provisions of this Code which are applicable to new structures. **(Ord. No. 974; 030190)**

(D)

Relocation. A nonconforming structure shall not be moved to another lot unless, after relocation, it will conform to all the regulations of the district where it will be situated.

4075 NONCONFORMING USES. Any otherwise lawful use existing on the effective date of this Chapter that would not be permitted under the terms of this Chapter may lawfully continue, subject to the following provisions:

(A) **Expansion/Intensification.** A nonconforming use which does not occupy a structure (such as a nursery) may be expanded/intensified, but only within the confines of the lot lines as such lines existed on the effective date of this Chapter. A nonconforming use which occupies a structure may be expanded or intensified, but only within that structure and/or within any conforming addition to said structure. **(See Section 4074(B) for rules concerning expansion of nonconforming structures.)**

(B) **Reestablishment.**

- (1) Any building or structure containing a nonconforming use and which is damaged by explosion, fire, flood, wind, or other Act of God or man to the extent of **one hundred percent (100%)** or more of its fair market (sales) value immediately prior to damage shall not be repaired or reconstructed except in conformity with the provisions of this Code. In the event the Building Inspector'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 Planning Commission.
- (2) In the event damage is less than **one hundred percent (100%)**, then the use may be reestablished. However, if no significant steps have been taken to reestablish the use within **one (1) year** from the date the damage occurred, then the use shall be considered abandoned and subject to the provisions of Paragraph (E) of this Section.

(C) **Relocation.** A nonconforming use shall not be moved, in whole or in part, unless, upon relocation, it will conform to all pertinent regulations of the district in which it will be located.

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

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

4076 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not affect the terms of any permit issued prior to the effective date of this Chapter or any pertinent amendment thereto provided that the work authorized by such permit is completed within a reasonable time.

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

4081 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 Chapter. This broad responsibility encompasses, but is not limited to, the following specific duties:

(A) To review and pass upon applications for Initial and Final Certificates of Zoning Compliance;

(B) to periodically inspect land, structures, and uses as required in **Sections 4082 through 40811** to determine compliance with this Chapter, and where there are violations, to initiate appropriate corrective action;

(C) to review and forward to the Zoning Board of Appeals all applications for specialuse permits, amendments, variances, and appeals;

(D) to maintain uptodate records of this Chapter including, but not limited to, district maps, certificates of zoning compliance, specialuse permits, temporaryuse 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 Chapter to determine whether revisions are needed, and to make recommendations on these matters to the Planning Commission at least once each year;

(F) publish copies of this Chapter, including the District Map, in accordance with **Section 4033**;

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

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

4082 INITIAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Chapter, no lot shall be created, 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 and inspection of the premises, he determines that the proposed work conforms to the applicable provisions of this Chapter.

4083 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 paragraph (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 10foot contour data is acceptable), and proposed finished grade;
- (G) height and setbacks of the proposed structure;
- (H) number and size of proposed dwelling units, if any;
- (I) location and number of proposed parking/loading spaces and accessways;
- (J) identification and location of all existing or proposed utilities, whether public or private; and/or
- (K) any other pertinent information that the Administrator may require.

4084 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 (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work.

4085 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot or part thereof recorded or developed after the effective date of this Chapter, and no structure or use or part thereof that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Chapter 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 he has determined by inspections while the work was in progress and when he was notified that it was finished, 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 Chapter.

4086 CORRECTIVE ACTION ORDERS. Whenever the Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon, is in violation of this Chapter, he shall so notify the responsible party, and shall order appropriate corrective action.

4087 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.

4088 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 registered mail to his last known address; or
- (C) posted in a conspicuous place on or about the affected premises.

4089 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. In such case, the corrective action order is equivalent to a stop order. **[See Section 4087(D)]**

40810 EMERGENCY MEASURES. Notwithstanding any other provisions of this Chapter, whenever the Administrator determines by inspection or otherwise that any violation of this Chapter poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40811 **COMPLAINTS.** Whenever any violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40812 **FILING FEES.** By resolution, the City Council shall establish (and may amend from time to time) a schedule of filing fees for the various permits and procedures listed in this Chapter. Said fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue raising device. All such fees shall be paid by the applicant to the City Clerk.

40813 **PENALTIES.**
(A) Any person who is convicted of a violation of this Chapter shall be fined not less than **Twenty-Five Dollars (\$25.00)**, nor more than **Five Hundred Dollars (\$500.00)**, plus costs. 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 Chapter.

ARTICLE IX

SPECIAL PROCEDURES AND PERMITS

4091 BOARD OF APPEALS ESTABLISHED. The Zoning Board of Appeals of the City is hereby established in accordance with Illinois law. **(65 ILCS 5/ 11133)**

4091.1 MEMBERSHIP APPOINTMENT COMPENSATION. The Board of Appeals shall consist of **seven (7) members** who shall reside within the City limits of the City of Chester. Each board member shall be appointed by the Mayor with the advice and consent of the City Council. The Mayor shall appoint the Chairman with the advice and consent of the Council. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. Each board member shall receive for his/her services such compensation, if any, as is determined from time to time by the City Council. **(Ord. No. 1344; 12-05-05)**

4091.2 TERM OF OFFICE VACANCIES. Each board member shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified; provided, however, that the initial appointees to the Board shall serve respectively for the following terms:

One (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, one (1) for five (5) years, one (1) for six (6) years, and one (1) for seven (7) years.

With the advice and consent of the 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 terms of the member whose place has become vacant in the same manner as provided for the appointment of new members.

4091.3 MEETINGS QUORUM. All meetings of the Board of Appeals shall be held at the call of the chairman and at such times as the Board may determine. All Board meetings shall be open to the public. The Board may adopt their own rules of meeting procedures consistent with this Chapter and the applicable Illinois Statutes. The Board may select such officers as they deem necessary. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. **Four (4) members** of the Board shall constitute a quorum, and the affirmative vote of **at least four (4) members** shall be necessary to authorize any Board action.

4091A RECORDS. The 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.

4092 SPECIALUSE PERMITS. This Chapter 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 casebycase review, and may be allowed only by permission of the City Council.

4092.1 APPLICATION. Every applicant for a specialuse 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 specialuse 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 applicant;
- (B) name and address of the owner or operator of the proposed structure or use, if different from paragraph (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 uses or structures;
- (E) area and dimensions of the site for the proposed structure or uses;
- (F) existing topography of the site (USGS 10foot contour data is acceptable), and proposed finished grade;
- (G) height and setbacks of the proposed structure;
- (H) number and size of the proposed dwelling units, if any;
- (I) location and number of proposed parking/loading spaces and accessways;
- (J) identification and location of all existing or proposed utilities, whether public or private; and/or
- (K) any other pertinent information that the Administrator may require.

4092.2 PUBLIC HEARING NOTICE. The Board of Appeals shall hold a public hearing on every specialuse permit application within a reasonable time after said application is submitted to them. The applicant for a specialuse permit shall provide a list of names and addresses of the parties whose property abuts the proposed special use. The Chairman of the Board of Appeals shall have the responsibility of scheduling the public hearings and sending out notices to that effect.

At the hearing, any interested party may appear and testify, either in person or by a 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) days** nor less than **fifteen (15) days** before the hearing:

- (A) by firstclass mail to the applicant and to all parties whose property abuts the proposed special use; and
- (B) by publication in a newspaper of general circulation within the City.

4092.3 ADVISORY REPORT FACTORS CONSIDERED. Within a reasonable time after the public hearing, the Zoning Board of Appeals shall submit their advisory report to the City 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) the effect the proposed special use would have on the value of neighboring property and on the City's overall tax base;
- (C) the effect the proposed special use would have on public utilities and on traffic circulation on nearby streets; and
- (D) whether there are any facilities near the proposed special use (such as schools or hospitals) that require special protection.

4092.4 ACTION BY COUNCIL. The City Council shall act on every request for a specialuse 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 specialuse 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.

4093 TEMPORARY USE PERMITS. As set forth in **Section 4038**, requests for temporary use permits shall be treated in substantially the same manner as requests for special use permits. The Council shall not initially issue any temporary use permit for a period longer than **one (1) year**, but they may renew any such permit as they see fit.

4094 AMENDMENTS. The City Council may amend this Chapter in accordance with State law (**65 ILCS 5/111314**) 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.

4094.1 FILING. Every proposal to amend this Chapter 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, Chapter 70, Section 405/22.02a).

The Administrator shall promptly transmit said proposal together with any comments or recommendations he may wish to make, to the Board of Appeals for a public hearing.

(NOTE: Filing fee required.)

4094.2 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 a 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) days** nor less than **fifteen (15) days** before the hearing:

(A) by publication in a newspaper of general circulation within the City;
and

(B) when the amendment involves a rezoning, not a text amendment, by first class mail to all parties whose property abuts the property for which rezoning is requested.

4094.3 ADVISORY REPORT FINDINGS OF FACT. Within a reasonable time after the public hearing, the Board of Appeals shall submit their advisory report to the 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(s) and zoning of the property in question;
- (B) existing use(s) 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.

4094.4 ACTION BY COUNCIL. The City Council shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Board of Appeals' advisory report. 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.

EXCEPTION: The favorable vote of at least two-thirds of all the members of the Council is required to pass an amendment to this Chapter when the proposed 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. **(65 ILCS 5/11-1314)**

4095 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 Chapter may appeal to the Board of Appeals. Every such appeal shall be made and treated in accordance with Illinois law **(65 ILCS 5/111312)** and the provisions of this Section.

4095.1 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 Illinois Compiled Statutes, Chapter 70, Section 405/22.02a.)

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.)**

4095.2 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.

4095.3 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 firstclass mail to all parties whose property abuts the property affected by the appeal; and
- (B) by publication in a newspaper of general circulation within the City.

4095.4 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 to the extent and in the manner that they deem appropriate.

4096 VARIANCES. A variance is a relaxation of the requirements of this Chapter that are applicable to a particular lot, structure, or use. A so-called "usevariance" (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 4094.**

4096.1 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 Illinois Compiled Statutes Chapter 70, Section 405/20.02a)

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 required.)

Items of Information:

- (A) Name and address of the applicant;
- (B) brief description/explanation of the requested variance;
- (C) location of the structure/use for which the variance is sought;
- (D) relationship of said structure/use to existing structures/uses on adjacent lots;
- (E) specific section(s) of this Chapter containing the regulations which, if strictly applied, would cause a serious problem; and
- (F) any other pertinent information that the Administrator may require.

4096.2 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) days** nor less than **fifteen (15) days** before the hearing:

- (A) by firstclass mail to the applicant and to all parties whose property abuts the property for which the variance is requested;
- (B) by publication in a newspaper of general circulation within the City.

4096.3 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 Chapter **(See Section 4011)**; 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 peculiar circumstances engendering the variance request are not applicable to other property within the district, and therefore, that a variance would be a more appropriate remedy than an amendment (rezoning); and

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

4096.4 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, 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 **Illinois Compiled Statutes, Chapter 65, Section 5/111311**, 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.

[Unless Otherwise Noted, This Chapter, Ord. No. 722 ; 121878]