

CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

**40-1-1      OFFICIAL ZONING MAP.**

(A) The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code.

(B) The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: **"This is to certify that this is the Official Zoning Map referred to in Section 40-1-1 of Chapter 40 of the Revised Code of Ordinances of the City of Griggsville, Illinois"**, together with the date of the adoption of this Code.

(C) If, in accordance with the provisions of this Code and **Chapter 65, Illinois Compiled Statutes**, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows:

"On **October 2, 1985**, by official action of the City Council, the following change(s) were made in the Official Zoning Map as posted at City Hall. No amendment to this Code which involves matter portrayed on the Official Zoning Map shall become effective until such change and entry has been made on the map.

(D) No change of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided in **Section 40-8-6**.

(E) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the City Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

**40-1-2      REPLACEMENT OF OFFICIAL ZONING MAP.**

(A) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the mayor attested by the City Clerk, and bearing the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted on as part of **Chapter 40** of the Revised Code of Ordinances of the City of Griggsville, Illinois."

(B) Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

**40-1-3      RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules contained in this Section shall be observed and applied.

(A) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(C) Boundaries indicated as approximately following City limits shall be construed as following such City limits.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed to follow such centerlines.

(F) Boundaries indicated as parallel to or extensions of features indicated in paragraphs (A) through (E) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

(G) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by paragraphs (A) through (F) above, the Board of Appeals shall interpret the district boundaries.

(H) Where a district boundary line divides a lot which was in single ownership at the time of passage of this Code, the Board of Appeals shall interpret the district boundaries.

**40-1-4 APPLICATION OF DISTRICT REGULATIONS.** The regulations set by this Code within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided.

**40-1-5 REGULATIONS.**

(A) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the regulations herein specified for the district in which it is located.

(B) No building or other structure shall hereafter be erected or altered:

- (1) to exceed the height or bulk;
- (2) to accommodate or house a greater number of families;
- (3) to occupy a greater percentage of lot area;
- (4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces

than herein required; or in any other manner contrary to the provisions of this Code.

(C) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(D) No yard or lot existing at the time of passage of this Code shall be reduced in dimension or in area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

(E) All territory which may hereafter be annexed to the City shall be considered to be in the **"R-1 Single-Family Residential District"** until otherwise classified. **(See Section 40-3-1)**

**ARTICLE II – NONCONFORMING USES**

**40-2-1**

**INTENT.**

(A) Within the districts established by this Code or amendments that may later be adopted there exist:

- (1) lots
- (2) structures
- (3) uses of land and structures, and
- (4) characteristics of use

which were lawful before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or further amendment. It is the intent of this Code to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. It is further the intent of this Code that a nonconformity shall cease to exist when the ownership of said use shall change. The former nonconforming use may continue only under the special use provisions of **Section 40-7-2**.

(B) Nonconforming uses are declared by this Code to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

(C) To avoid undue hardship, nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

**40-2-2**

**NONCONFORMING LOTS OF RECORDS.**

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

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

**40-2-3      NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES).** Where, at the time of passage of this Code, lawful use of land exists which would not be permitted by the regulations imposed by this Code, and where such use involves no individual structure with a replacement cost exceeding **One Thousand Dollars (\$1,000.00)**, the use may be continued so long as it remains otherwise lawful, provide:

- (A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Code.
- (B) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Code.
- (C) If any such nonconforming use of land ceases for any reason for a period of more than **thirty (30) days**, any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located.
- (D) No additional structure not conforming to the requirements of this Code shall be erected in connection with such nonconforming use of land.

**40-2-4      NONCONFORMING STRUCTURES.** Where a lawful structure exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- (B) Should such nonconforming structure or nonconforming portion of the structure be destroyed by any means to an extent of more than **fifty percent (50%)** of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code.
- (C) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**40-2-5      NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.** If lawful use involving individual structures with a replacement cost of **One Thousand Dollars (\$1,000.00)** or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Code that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located.
- (B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside such building.
- (C) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this Code.
- (D) Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- (E) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for **six (6) months** or for **eighteen (18) months** during any **three (3)**

**year** period (except when government action impedes access to the premises), the structure or structure and premises in combination shall not thereafter be used, except in conformity with the regulations of the district in which it is located.

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

**40-2-6                    REPAIRS AND MAINTENANCE.**

(A) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of **twelve (12) consecutive months** on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding **ten percent (10%)** of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

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

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

**40-2-7                    USES UNDER SPECIAL USE – PROVISIONS NOT NONCONFORMING USES.**

Any use which is permitted as a special use in a district under the terms of this Code (other than a change through Board of Appeals action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall, without further action, be considered a conforming use.

**ARTICLE III – SCHEDULE OF DISTRICT REGULATIONS ADOPTED**

**40-3-1**        **DISTRICTS.** For the purpose and provisions of this Code, the City is hereby organized into the following districts:

- (A)            R-1 – Single-Family Residential District
- (B)            R-2 – Single-Family Residential District
- (C)            B-1 – General Business District
- (D)            B-2 – Highway Business District
- (E)            I-1 – Light Industrial District

**40-3-2**        **R-1 – SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS.** The R-1 District is intended to provide for low density residential development. The district is designed to protect residential areas now developed with single-family detached dwellings and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated and regulations imposed for various kinds of residential developments in order that the City can plan ahead for services, future schools, parks, streets, and utilities. For these reasons, the following regulations shall apply:

(A)            **Permitted Uses.**

One family detached dwellings.

Public or private community facilities, including, but not limited to, schools, churches, cemeteries, libraries, parks, recreation facilities, and hospitals.

Agricultural uses, including, but not limited to, nurseries, truck gardening and greenhouses, provided that no offensive odors or dust are created, and provided further that no retail sales shall be permitted on the premises, nor the raising or feeding of livestock.

Single manufactured homes (must conform to the provisions in **Section 40-3-2(D)** – Bulk Requirements).

Multiple-family dwelling units (must conform to the provisions of **Section 40-3-2(D)** – Bulk Requirements)

(B)            **Permitted Accessory Uses.** Uses customarily incident to any of the listed permitted uses may be continued, specifically, the following:

Private garage or carport.

Temporary buildings for use during the construction of a specified permitted use, which, upon completion or abandonment of the construction, work shall be removed.

**One (1) sign** not exceeding **thirty-six (36) square feet** in area, referring to the construction, lease or sale of a building, premise, or subdivision lot. The sign shall refer to property on which the sign is located and shall be removed as soon as the premises are sold or leased or construction is completed.

Professional office or studio in the residence of an architect, artist, dentist, lawyer, physician or other member of a recognized profession, including beauty parlors, barbershops, and pre-school nurseries.

Home occupations provided that such use is incidental to the main use as a dwelling, and further provided that such use is limited to a person actually residing in the dwelling.

Off-street parking. (**See Section 40-4-8**)

Off-street loading. (**See Section 40-4-9**)

(C)            **Special Uses.** The following special uses may be established in an R-1 Single-Family Residential District subject to the provisions of **Section 40-7-2**.

Public utility and service uses, including, but not limited to, electrical substations, gas regulatory stations, telephone transmission structures; radio, television and microwave relay towers, water reservoirs or pumping stations; government buildings; and transportation facilities.

(D) **Bulk Requirements.**

Lot:

Minimum Area	7,200 sq. ft., one-family 14,400 sq. ft., two-family 16 dwelling units per acre, multi-family
Minimum width at building line	60 feet

Minimum Yards:

Front	15 ft., one-family 30 ft., two-family and multi-family
Rear	8 ft., one-family 30 ft., two-family and multi-family
Side	8 ft., one-family 12 ft., two-family and multi-family

Building:

Minimum Total Floor Area	700 sq. ft., one-family 600 sq. ft., manufactured home 600 sq. ft., 1 bedroom apartment 700 sq. ft., 2 bedroom apartment
--------------------------	---

**40-3-3 R-2 – SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS.** The R-2 District is intended to provide for medium density residential development. The district is designed to protect residential areas now developed with single-family detached dwellings and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated and regulations imposed for various kinds of residential developments in order that the City can plan ahead for services, future schools, parks, streets, and utilities. For these reasons, the following regulations shall apply:

(A) **Permitted Uses.**

Any permitted use as allowed in an R-1 District.  
A single mobile home (subject to **Section 40-3-3(D)**).  
Manufactured home parks (subject to provisions of Mobile Home Park Code).

(B) **Permitted Accessory Uses.** Uses customarily incident to any of the listed permitted uses may be continued, specifically, the following:

Any permitted accessory use as allowed in an R-1 District.  
Off-street parking. (**See Section 40-4-8**)  
Off-street loading. (**See Section 40-4-9**)

(C) **Special Uses.** The following special uses may be established in an R-2 Single-Family Residential District subject to the provisions of **Section 40-7-2**.

Any special use as allowed in an R-1 District.

(D) **Bulk Requirements.**

Lot:

Minimum Area	6,000 sq. ft., one-family
Minimum width at building line	60 feet

Minimum Yards:

Front	25 feet
Rear	30 feet
Side	10% of lot width

Building:

Minimum Total Floor Area	720 sq. ft.
Maximum Height	35 feet

**40-3-4 B-1 – GENERAL BUSINESS DISTRICT REGULATIONS.** The B-1 General Business District is established to provide areas for retail establishments which offer a wide range of goods and services. For these reasons, the following regulations shall apply:

**(A) Permitted Uses.**

\*Retail Sales. Processing of products is permitted only if all products are sold at retail on the premises.

\*Consumer Services. Processing is permitted only if all such processing is performed as a consumer service for customers served on the premises.

Professional, business, and government offices.

Community facilities, including, but not limited to churches, libraries, parks, hospitals, and government buildings.

\* It may be desirable to list specific retail sales establishments and consumer services. Listing specific uses can result in literally hundreds of uses, depending on the uses included and the completeness desired.

**(B) Permitted Accessory Uses.** Uses customarily incident to any of the listed permitted uses may be continued, specifically the following:

Off-street parking. **(See Section 40-4-8)**

Off-street loading. **(See Section 40-4-9)**

**(C) Special Uses.** The following special uses may be established in a B-1 General Business District subject to the provisions of **Section 40-7-2.**

Public utility and service uses, including, but not limited to electric substations, gas regulatory stations, telephone transmission structures; radio, television and microwave relay towers; water reservoirs or pumping stations; and transportation facilities.

Automobile filling stations.

Motels and motor lodges.

Establishments of the "drive-in" type.

Residential units in the upper floors of commercial buildings.

Amusement establishment, including, but not limited to bowling alleys, dance halls, and skating rinks.

Contractor's yards and storage.

Motor vehicle and farm machinery sales.

Storage, warehousing, and wholesale establishments.

**(D) Bulk Requirements.**Lot:

Minimum Area	None Required
Minimum width at building line	None Required



**Minimum Yards:**

Front	None Required
Rear	20 feet
Side	None required except lots adjoining a residential district shall provide a side yard on that adjoining side to that required in the adjoining residential district.

**Building:**

Minimum Total Floor Area	None Required
Maximum Height	60 feet

**40-3-5 B-2 – HIGHWAY BUSINESS DISTRICT REGULATIONS.** The B-2 Highway Business District is established to provide areas for commercial establishments which cater primarily to the needs of motorists. Typical uses offer accommodations and services to motorists, specialized outlets, and commercial amusement enterprises. The requirements of this district are developed to minimize traffic hazards and interferences with other related uses in the vicinity. For these reasons, the following regulations shall apply:

**(A) Permitted Uses.**

Automotive filling stations.  
 Automobile sales and services.  
 Motels, motor lodges and other establishments offering commercial lodging.  
 Restaurants and drive-in eating and drinking establishments.  
 Amusement establishments, including, but not limited to bowling alleys, dance halls, skating rinks, and other places of assembly.  
 Farm implements and agricultural sales and service establishments.  
 Any permitted use in the B-1 General Business District.

**(B) Permitted Accessory Uses.** Uses customarily incident to any of the listed permitted uses may be continued, specifically the following:

Off-street parking. **(See Section 40-4-8)**  
 Off-street loading. **(See Section 40-4-9)**

**(C) Special Uses.** The following special uses may be established in a B-2 Highway Business District, subject to the provisions of **Section 40-7-2.**

Outdoor amusement and recreational enterprises, including, but not limited to drive-in theaters, fairgrounds, and auto tracks.  
 Contractor's yards and related builders supply establishments.  
 Truck terminals and bus stations.

**(D) Special Regulations.**

Screening shall be provided at lot boundaries abutting a residential zoning district, and may consist of solid fencing, or dense hedge or shrub to a minimum of **six (6) feet** in height.

(E) **Bulk Requirements.**

Lot:

Minimum Area	None Required
Minimum width at building line	None Required

Minimum Yards:

Front	25 feet
Rear	20 feet
Side	10 feet

Building:

Minimum Total Floor Area	None Required
Maximum Height	35 feet

**40-3-6 I-1 – LIGHT INDUSTRIAL DISTRICT REGULATIONS.** The regulations for the I-1 Light Industrial District are intended to provide for the establishment of a full range of industrial activities and to govern their operations in a manner that will not have a deleterious effect on residential and business areas. It is essential that the needs of industry, both today and in the foreseeable future be adequately provided for and a proper balance maintained with other uses. Without provision for good industrial sites and the opportunity for industrial expansion, the City would hinder the growth and development of its economic and tax base and limit the opportunities for its labor force for a variety of employment. For these reasons, the following regulations shall apply:

(A) **Permitted Uses.**

Any production, processing, cleaning, servicing, testing, repair, assembly, manufacturing, printing, and storage of materials, goods or products; except those uses involving the storage, utilization or manufacture of materials or products which decompose by detonation, and which shall not be injurious or offensive to the occupants of adjacent premises by reason of the emission of or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious materials, odors, fire or explosive hazards, or glare or heat.

Wholesaling and warehousing.

Public and community services uses including, but not limited to electric substations, fire stations, sewage treatment plants, water filtration plants, water pumping stations, and water reservoirs.

Junk yards and salvage yards.

Railroad yards and truck terminals.

(B) **Permitted Accessory Uses.** Uses customarily incident to any of the listed permitted uses may be continued, specifically the following:

Off-street parking. **(See Section 40-4-8)**

Off-street loading. **(See Section 40-4-9)**

(C) **Special Uses.** The following special uses may be established in an I-1 Light Industrial District, subject to the provisions of **Section 40-7-2.**

Slaughter houses, plants for the processing of animal skins or hides, and plants for the reduction of animal matter.

Fertilizer, chemical, liquid petroleum products, and bottled gas storage operations.

(D) **Special Regulations.**

Storage, auxiliary to the permitted use is permitted in the open, but not within **twenty (20) feet** of the property lines.  
Screening shall be provided at lot boundaries abutting a residential zoning district, and may consist of solid fencing, or dense hedge or shrub to a minimum of **six (6) feet** in height.

(E) **Bulk Requirements.**

<u>Lot:</u>	
Minimum Area	3 acres
Minimum width at building line	None Required
<u>Minimum Yards:</u>	
Front	50 feet
Rear	50 feet
Side	20 feet
<u>Building:</u>	
Minimum Total Floor Area	None Required
Maximum Height	50 feet

**ARTICLE IV – SUPPLEMENTARY DISTRICT REGULATIONS**

**40-4-1      VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.** On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of **two and one-half (2 ½) feet** and **ten (10) feet** above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines **fifty (50) feet** from the point of intersection. **(See Exhibit 3-2)**

**40-4-2      ACCESSORY BUILDINGS.** No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within **five (5) feet** of any other building.

**40-4-3      EXCEPTIONS TO HEIGHT REGULATIONS.** The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimney, including telecommunications towers (not to exceed **one hundred sixty (160) feet** in height from ground level) or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. **(Ord. No. 19-05; 11-06-19)**

**40-4-4      STRUCTURES TO HAVE ACCESS.** Every building hereafter erected or moved shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be so located on lots as to provide safe, convenient access for servicing, fire protection, and required off-street parking.

**40-4-5      ERECTION OF MORE THAN ONE (1) PRINCIPAL STRUCTURE ON A LOT.** In any district, more than **one (1)** structure housing a permitted use may be erected on a single lot, provided that yard and other requirements of this Code shall be met for each structure as though it were on an individual lot.

**40-4-6      PARKING, STORAGE, OR USE OF MAJOR RECREATIONAL EQUIPMENT.** For the purpose of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

**40-4-7      PARKING AND STORAGE OF CERTAIN VEHICLES.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residential zoned property other than in completely enclosed buildings.

**40-4-8      OFF-STREET PARKING REGULATIONS.**  
(A) Except as otherwise indicated, required accessory off-street parking facilities provided for uses listed hereinafter shall be solely for the parking of passenger automobiles of patrons, occupants (or their guests), or employees of such uses.

(B) Off-street parking facilities for separate uses may be provided collectively, if the total number of spaces so provided collectively is not less than the sum of the separate requirements for each such use and provided that all regulations governing location of accessory parking spaces in relation to

the use served are adhered to. Further, no parking space for more than one use unless otherwise authorized by the Board of Appeals.

(C) Size of each parking space shall not be less than **two hundred (200) square feet**, exclusive of the space required for ingress and egress.

(D) Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.

(E) **Design and Maintenance.**

(1) All open, off-street parking areas except parking spaces accessory to a single-family dwelling shall be improved with an asphaltic concrete surface, concrete, or some comparable all-weather dustless material, and shall have appropriate bumper guards where needed.

(2) Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance.

(F) When **two (2)** or more uses are located on the same zoning lot or within the same building, parking spaces equal in number to the sum of the separate requirements for each such use shall be provided. No parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Appeals.

(G) For uses not listed in the following schedule of parking requirements, parking spaces shall be provided on the same basis as required for the most similar listed use, as required by this Code, or as a variance due to unique circumstances granted by the Board of Appeals.

(H) **Schedule of Off-Street Parking Requirements by Use.**

Single-family residential	2 spaces per dwelling unit
Multi- and two-family residential	2 spaces per dwelling unit
Motels, hotels and lodging houses	1 space per lodging unit, plus one stall for each 100 square feet of retail sales or dining area
Commercial (except as specifically provided below)	1 space per 200 square feet of gross floor area
Furniture, appliance stores, machinery sales, wholesale storage	1 space per 400 square feet of gross floor area
Offices, banks, or public administration	1 space per 400 square feet of gross floor area
Manufacturing, warehousing	1 space for each employee on the maximum working shift, plus 1 for each vehicle used in the conduct of the enterprise
Churches, theaters, auditoriums, and other places of assembly	1 space per 5 seating spaces
Hospitals, rest homes, nursing homes	1 space per 3 employees, plus 1 per 3 beds

**40-4-9 OFF-STREET LOADING REGULATIONS.**

(A) All required loading berths shall be located on the same zoning lot as the use served. No loading berth for vehicles over **two (2) ton** capacity shall be closer than **fifty (50) feet** to any property in a Residential District unless completely enclosed by a building wall, or uniformly painted solid fence or wall, or any combination thereof, not less than **six (6) feet** in height.

(B) Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements, and subject to approval of the County Highway Superintendent.

(C) All open off-street loading berths shall be improved with a compacted macadam base not less than **seven (7) inches** thick, surfaced with not less than **two (2) inches** of asphaltic concrete or some comparable all-weather dustless material.

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

(E) For special uses other than prescribed for hereinafter, loading berths adequate in number and size to serve such use shall be provided as determined by the Board of Appeals.

(F) **Schedule for Off-Street Loading Requirements by Use.**

Single-family residential	None required
Multi- and two-family residential	None required
Motels, hotels, and lodging houses	1 for each structure or each 20,000 square feet of gross floor area
Commercial (except as specifically provided below)	1 for each shop over 10,000 square feet gross floor area, plus 1 for each additional 100,000 square feet of gross floor area
Furniture, appliance stores, machinery sales, wholesale storage	1 space, plus 1 additional for each 25,000 square feet of gross floor area
Offices, banks, or public administration	1 for each structure over 40,000 square feet of gross floor area, plus 1 for each additional 100,000 square feet of gross floor area
Manufacturing, warehousing	1 for each structure, plus 1 for each 60,000 square feet of gross floor area over 40,000 square feet
Churches, theaters, auditoriums, and other places of assembly	1 for each structure over 100,000 square feet of gross floor area
Hospitals, rest homes, nursing homes	1 for each 100,000 square feet of floor area

**ARTICLE V - ADMINISTRATION AND ENFORCEMENT**

**40-5-1      ADMINISTRATION AND ENFORCEMENT.**

(A)      An Administrative Official designated by the City Council shall administer and enforce this Code. He may be provided with the assistance of such persons as the City Council may direct.

(B)      If the Administrative Official shall find that any of the provisions of this Code are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

**40-5-2      BUILDING PERMITS REQUIRED.** No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the Administrative Official. No building permit shall be issued by the Administrative Official except in conformity with the provisions of this Code, unless he receives a written order from the Board of Appeals in the form of an administrative review, special use or variance as provided by this Code.

**40-5-3      APPLICATION FOR BUILDING PERMIT.**

(A)      All applications for building permits shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Code.

(B)      **One (1) copy** of the plans shall be returned to the applicant by the Administrative Official, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The original and **one (1) copy** of the plans similarly marked shall be retained by the Administrative Official.

**40-5-4      CERTIFICATES OF ZONING COMPLIANCE FOR NEW, ALTERED, OR NONCONFORMING USES.**

(A)      It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued thereof by the Administrative Official stating that the proposed use of the building or land conforms to the requirements of this Code.

(B)      No nonconforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the Administrative Official. The Certificate of Zoning Compliance shall state specifically wherein the nonconforming use differs from the provisions of this Code, provided that upon enactment or amendment of this Code, owners or occupants of nonconforming uses or structures shall have **three (3) months** to apply for Certificate of Zoning Compliance. Failure to make such application within **three (3) months** shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Code.

(C)      No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a Certificate of Zoning Compliance, and the certificate shall be issued in conformity with the provisions of this Code upon completion of the work.

(D)      A temporary Certificate of Zoning Compliance may be issued by the Administrative Official for a period not exceeding **six (6) months** during alterations or partial occupancy of a building

pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

(E) The Administrative Official shall maintain a record of all Certificates of Zoning Compliance, and a copy shall be furnished upon request to any person.

(F) Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Code and punishable under **Section 40-8-6**.

**40-5-5      EXPIRATION OF BUILDING PERMIT.**

(A) If the work described in any building permit has not begun within **ninety (90) days** from the date of issuance thereof, said permit shall expire and be cancelled by the Administrative Official; and written notice thereof shall be given to the persons affected.

(B) If the work described in any building permit has not been substantially completed within **two (2) years** of the date of issuance thereof, said permit shall expire and be cancelled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

**40-5-6      CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, AND CERTIFICATES OF ZONING COMPLIANCE.** Building permits or Certificates of Zoning Compliance issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this Code, and punishable as provided in **Section 40-8-6**.



**ARTICLE VI - BOARD OF APPEALS**

**40-6-1      ESTABLISHMENT.** A Board of Appeals is hereby established, which shall consist of **seven (7) members** to be appointed and approved by the City Council. The term of office shall be **five (5) years**.

**One (1)** of the members so appointed shall be named as Chairman at the time of appointment and in case of vacancy, the City Council shall designate a Chairman. Members of the Board of Appeals may be removed from office by the City Council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the City Council for the unexpired term of the member affected. The City Council shall fix the amount of compensation to be paid to members, if any.

(A) **Sitting as Plan Commission.** The Zoning Board of Appeals shall have the same members as the Plan Commission. The Plan Commission/Zoning Board of Appeals may meet either as the Plan Commission or as the Zoning Board of Appeals, and may hear and decide matters both as the Plan Commission and as the Zoning Board of Appeals in a single meeting. **(Ord. No. 2010-06; 12-02-10)**

**40-6-2      PROCEEDINGS OF THE BOARD OF APPEALS.** All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine. The Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Code. The Chairman, or in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official action. No hearing shall be conducted without a quorum of the Board being present, which shall consist of a majority of all the members. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Board shall immediately be filed in the office of the Board and shall be a public record.

**40-6-3      HEARINGS; APPEALS; NOTICE.** An appeal to the Board of Appeals concerning the interpretation or administration of this Code may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the Administrative Official. The appeal shall be taken within **forty-five (45) days** of the action complained of by filing with the Administrative Official and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end has all the powers of the Administrative Official from whom the appeal is taken.

**40-6-4      STAY OF PROCEEDINGS.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Official from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In this event the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a circuit court on application and on notice to the Administrative Official from whom the appeal is taken, and on due cause shown.

**ARTICLE VII – POWERS AND DUTIES OF THE BOARD OF APPEALS**

**40-7-1 ADMINISTRATIVE REVIEW.** The Board of Appeals shall have the power to decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of this Code. The concurring vote of **four (4) members** of the Board is necessary to reverse any order, requirement, decision, or determination of such Administrative Official, or to decide in favor of the applicant any matter upon which it is required to pass under this Code, or to affect any variation in the Code, or to recommend any variation or modification in the Code to the City Council.

**40-7-2 SPECIAL USES: CONDITIONS GOVERNING APPLICATIONS; PROCEDURES.** The Board shall hear and decide only such special uses as the Board is specifically authorized to pass on by the terms of this Code; to decide such questions as are involved in determining whether special uses should be granted; and to grant special uses with such conditions and safeguards as are appropriate under this Code, or to deny special uses when not in harmony with the purpose and intent of this Code. A special use shall not be granted by the Board of Appeals unless and until:

(A) A written application for a special use is submitted indicating the section of this Code under which the special use is sought and stating the grounds on which it is requested.

(B) No special use shall be made by the Board of Appeals or by ordinance except in a specific case and after a public hearing before the Board of which there shall be a notice of the time and place of the hearing published at least once, not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing in **one (1)** or more newspapers with a general circulation within the City. The notice shall contain the particular location for which the special use is requested as well as a brief statement of what the proposed special use consists.

(C) The public hearing shall be held, and any party may appear in person or by agent or attorney.

(D) The Board of Appeals shall make a finding that is empowered under the section of this Code described in the application to grant the special use, and that the granting of the special use will not adversely affect the public interest.

(E) Before any special use shall be issued, the Board shall make written findings certifying compliance with the specific rules governing individual special uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special use on adjoining properties and properties generally in the district.
- (3) Refuse and service areas, with particular reference to the items in (1) and (2) above.
- (4) Utilities, with reference to locations, availability, and compatibility.
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
- (7) Required yards and other open spaces.
- (8) General compatibility with adjacent properties and other property in the district.

**40-7-3      VARIANCES: CONDITIONS GOVERNING APPLICATIONS; PROCEDURES.**

(A) The Board of Appeals shall authorize, upon appeal in specific cases, such variances from the terms of this Code as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship. A variance from the terms of this Code shall not be granted by the Board of Appeals unless and until:

- (1) A written application for a variance is submitted demonstrating:
  - (a) that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - (b) that literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code;
  - (c) that the special conditions and circumstances do not result from the actions of the applicant;
  - (d) that granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district.
- (2) No variance shall be made by the Board of Appeals or by ordinance except in a specific case and after a public hearing before the Board of which there shall be a notice of the time and place of the hearing published at least once, not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing in **one (1)** or more newspapers with a general circulation within the City. The notice shall contain the particular location for which the variance is requested as well as a brief statement of what the proposed variance consists.
- (3) The public hearing shall be held and any party may appear in person, or by agent, or by attorney.
- (4) The Board of Appeals shall make findings that the requirements of **Section 40-7-3(A)(1)** have been met by the applicant for a variance.
- (5) The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Code, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

(B) No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

(C) In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code and punishable under **Section 40-8-6** of this Code.

(D) Under no circumstances shall be Board of Appeals grant a variance to allow a use not permissible under the terms of this Code in the district involved or any use expressly or by implication prohibited by the terms of this Code in said district.

**40-7-4      APPEALS: REVERSING DECISION OF ADMINISTRATIVE OFFICIAL.** In exercising the above mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the

appeal is taken. The concurring vote of **four (4) members** of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Code, or to affect any variation in the application of this Code.

**40-7-5      APPEALS FROM THE BOARD OF APPEALS.** Any person or persons, or by board, taxpayer, department, or bureau of the City aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, pursuant to the provisions of the "**Administrative Review Act**", and all amendments and modifications thereof, and the rules adopted pursuant thereto; **Chapter 735, Illinois Compiled Statutes.**

## ARTICLE VIII – DUTIES OF ADMINISTRATIVE OFFICIAL

**40-8-1**      **INTENT AND PURPOSE.** It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Board of Appeals shall be the courts as provided by law and particularly by **Chapter 735, Illinois Compiled Statutes**. It is further the intent of this Code that the duties of the City Council in connection with this Code shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Section and this Code. Under this Code, the City Council shall have only the duties of (1) considering and adopting or rejecting proposed amendments or the repeal of this Code as provided by law, and (2) establishing a schedule of fees and charges as stated in **Section 40-8-2**.

**40-8-2**      **SCHEDULE OF FEES, CHARGES, AND EXPENSES.** The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Code. The schedule of fees shall be posted in the office of the Administrative Official, and may be altered or amended only by the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on an application or appeal.

**40-8-3**      **AMENDMENTS.** The regulations, restrictions, districts, and boundaries set forth in this Code may from time to time be amended, supplemented, changed or repealed by ordinance after the ordinance establishing them has gone into effect, but no such action shall be made until it shall have been referred to the Plan Commission and a report received from the Commission upon the effect of the amendment upon the City and the welfare of the inhabitants thereof. The Plan Commission shall hold one public hearing upon such amendment and is hereby designated as the body to hold such hearings.

If no report is received from the Plan Commission in **sixty (60) days**, it may be assumed that the Commission has approved the amendment. Notice shall be given of the time and place of the hearing, by publishing a notice thereof at least once in **one (1)** or more newspapers with a general circulation within the City. In case of a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered, is filed with the City Clerk, the amendment shall not be passed except by a favorable vote of **two-thirds (2/3)** of the Aldermen of the City then holding office.

**40-8-4**      **PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.** In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

**40-8-5**      **COMPLAINTS REGARDING VIOLATIONS.**  
 (A) In case any building or structure, including fixtures, is constructed, reconstructed, altered, repaired, converted, or maintained, or any building or structure, including fixtures, or land, is used in violation of this Code, the proper local authorities of the City, or any owner or tenant of real property within **five hundred (500) feet** in any direction of the property on which the building or structure in question is located, who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding:

- (1) To prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) to prevent the occupancy of the building, structure, or land;
- (3) to prevent any illegal act, conduct, business, or use in or about the premises; or
- (4) to restrain, correct, or abate the violation.

(B) Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Official. The Administrative Official shall record properly such complaint, immediately investigate, and serve a copy of the complaint on the chief executive officer of the City. No such action may be maintained until the chief executive officer has been served with said complaint.

**40-8-6      PENALTIES FOR VIOLATION.** Violation of the provisions of this Code or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special uses) shall constitute a misdemeanor.

Any person who violates this Code or fails to comply with any of its requirements, shall, upon conviction thereof, be fined not more than **Five Hundred Dollars (\$500.00)**, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continued shall be considered a separate offense. The owner or tenant of any building, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

## ARTICLE IX – RULES AND DEFINITIONS

### 40-9-1 **RULES.** The following rules shall apply to this Chapter:

- (A) Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular; where the context requires.
- (B) The word "**shall**" is mandatory and not discretionary.
- (C) The word "**may**" is permissive.
- (D) The word "**lot**" shall include the words "piece", "parcel", and "tract"; and the phrase "**used for**" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
- (E) All measured distances shall be to the nearest integral foot. If a fraction is **one-half (1/2) foot** or less the integral foot next below shall be taken.
- (F) Any words not defined in the following section shall be construed in their generally accepted meaning(s) as defined in the most recent publication of **Webster's Dictionary**.

**40-9-2 DEFINITIONS.** The words and terms as set forth in this Section, wherever they occur in this Chapter shall be interpreted as herein defined:

**Accessory Use or Structure:** A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

**Buildable Area:** The portion of a lot remaining after required yards have been provided.

**Drive-In Restaurant or Refreshment Stand:** Any place or premises used for sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

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

**Dwelling, Mobile Home:** A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, locations to utilities, and the like. A travel trailer is not to be considered as a mobile home.

**Dwelling, Two-Family:** A detached residential building containing **two (2)** dwelling units, designed for occupancy by not more than **two (2) families**.

**Dwelling, Multiple-Family:** A residential building designed for or occupied by **three (3)** or more families, with the number of families in residence not exceeding the number of dwelling units provided.

**Dwelling Unit:** One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

**Family:** **One (1)** or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over **five (5) persons**, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

**Filling Station:** Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:

- (A) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- (B) Tire servicing and repair, but not recapping or regrooving;
- (C) Replacement of mufflers and tail pipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like;
- (D) Radiator cleaning and flushing;
- (E) Washing and polishing, and sale of automotive washing and polishing materials;
- (F) Greasing and lubrication;
- (G) Providing and repairing fuel pumps, oil pumps, and lines;
- (H) Minor servicing and repair of carburetors;
- (I) Emergency wiring repairs;
- (J) Adjusting and repairing brakes;
- (K) Minor motor adjustments not involving removal of the head or crankcase or racing the motor;
- (L) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
- (M) Provision of road maps and other informational material to customers; provision of restroom facilities.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

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

- (A) No person other than members of the family residing on the premises shall be engaged in such occupation;
- (B) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than **twenty-five percent (25%)** of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- (C) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than **one (1)** sign, not exceeding **one (1) square foot** in area, non-illuminated, and mounted flat against the wall of the principal building;
- (D) No home occupation shall be conducted in any accessory building;
- (E) There shall be no sales in connection with such home occupation;
- (F) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (G) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

**Livestock:** Cattle, horses, sheep, goats, poultry or swine.

**Loading Space, Off-Street:** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.



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

- (A) A single lot of record;
  - (B) A portion of a lot of record;
  - (C) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
  - (D) A parcel of land described by meters and bounds;
- provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code.

**Lot Frontage:** The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under **"Yards"**.

**Lot Measurements:**

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

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

**Lot Types:** The diagram (Figure 1) which follows illustrates terminology used in this Chapter with reference to corner lots, interior lots, reversed frontage lots and through lots:

In the diagram, A = corner lot, defined as a lot located at the intersection of **two (2)** or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than **one hundred thirty-five (135) degrees**. See lots Marked "A" in the diagram.

B = interior lot, defined as a lot other than a corner lot with only **one (1)** frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than **one (1) street**. Through lots abutting **two (2) streets** may be referred to as double frontage lots.

D = reversed frontage lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than **one hundred thirty-five (135) degrees**) to the general pattern of the area. A reversed frontage lot may also be a corner lot ("A"- "D" in the diagram), an interior lot ("B"- "D") or a through lot ("C"- "D").

**Parking Space, Off-Street:** For the purposes of this Chapter, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for **three (3)** or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at **three hundred (300) square feet**, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all codes and regulations of the City.

**Special Use:** A special use is a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special uses, if specific provision for such special uses is made in this Zoning Code.

**Street Line:** The right-of-way line of a street.

**Structure:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, billboards, and poster panels.

**Travel Trailer:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding **eight (8) feet**.

**Variance:** A variance is a relaxation of the terms of the Zoning Code where such variations will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code would result in unnecessary and undue hardship. As used in this Code, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

**Yard:** A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from **thirty (30) inches** above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**Yard, Front:** A yard extending between side lot lines across the front of a lot adjoining a public street.

(A) In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of **thirty (30) inches**, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of **thirty (30) inches** and **ten (10) feet**.

(B) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Administrative Official may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

(C) In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

(D) In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the outer frontage.

(E) In the case of corner lots with more than **two (2)** frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations:

- (1) At least **one (1)** front yard shall be provided having the full depth required generally in the district;
- (2) No other front yard on such lot shall have less than half the full depth required generally.

Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

**Yard, Side:** A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line, to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full-and-half-depth front yards have been established shall be considered side yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

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

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

**Yard, Special:** A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term **"side yard"** nor the term **"rear yard"** clearly applies. In such cases, the Administrative Official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

The diagram (Figure 2) on the next page illustrates location and methods of measuring yards on rectangular and non-rectangular lots.