

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS

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

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

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

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

(D) To ensure that the occupants of all buildings are reasonably protected from fire and provided with adequate light, air and privacy;

(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 administration and fair enforcement of all the substantive regulations set forth herein.

40-1-2 **JURISDICTION** This Code shall be applicable within the corporate limits of the Village of Dawson.

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

40-1-4 **DISCLAIMER OF LIABILITY.**
(A) Except as may be provided by statute or code, no officer, board member, agent, or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. (**See 745 ILCS Sec. 10/1-101**)

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

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

40-1-6 REVIEW AND EXPIRATION. This Code shall remain in effect until rescinded by action of the Board of Trustees of Dawson, Illinois.

40-1-7 WHEN EFFECTIVE. This Code shall take effect **ten (10) days** after its final passage, approval and publication as provided by law. **(See 65 ILCS Sec. 5/1-2-4)**

(Ord. No. 93-004; 08-02-93)

ARTICLE II - DEFINITIONS

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

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

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

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

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

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

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

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

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

40-2-2 SELECTED DEFINITIONS.

Abutting: Having a common lot line or district line. Synonym for "**contiguous**".

Access Way: A curb cut, ramp, driveway or other means for providing vehicular access to an off-street parking or loading area.

Accessory Use: Any structure or use that is:

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

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

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

Administrator: The official appointed by the President with the advice and consent of the Board of Trustees to administer this Code, or his representative.

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

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

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

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

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

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

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

Block: A tract of land bounded by public streets, railroads or other defined boundaries that make it a homogenous unit.

Board of Appeals: The Zoning Board of Appeals of Dawson, Illinois.

Board of Trustees: The Board of Trustees of Dawson, Illinois.

Buffer Strip: An area of land--undeveloped except for landscaping fences, etc.,--used to protect a use situated on **one (1) lot** from the deleterious effects of the use on the adjacent lot.

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 mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roofs. Chimneys, towers, cooling towers, and similar projections (other than signs) shall not be included in calculating building 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 right-of-way.

Building, Temporary: Any building not designed to remain in the place where it is presently affixed.

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

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

Business: Any occupation, employment or enterprise where merchandise is exhibited or sold, or where services are offered for compensation.

Centerline:

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

Certificate of Zoning Compliance, Initial: A permit issued by the Administrator indicating that proposed construction work is in conformity with the requirements of this Code 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.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other business (wholesale).

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

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

Conventionally-Constructed: As applied to a dwelling, conventionally-constructed means "stick-built" or assembled on-site using pre-cut parts, but not erected simply by joining together **two (2)** factory-built housing sections.

Corrective Action Order: A legally-binding order issued by the Board of Trustees in accordance with the procedures set forth herein to effect compliance with this Code.

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

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.

Dimension: Refers to both lot depth and width.

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

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking 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, and other accommodations for the transient public.

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

Dwelling, Single-Family: A detached dwelling containing **one (1) dwelling unit** and intended for the occupancy of **one (1) family**.

Dwelling, Two-Family: A dwelling containing **two (2) 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. "**Enlarge**" is synonymous with "**extend**" and "**expand**".

Erect: To build, construct.

Establishment: Either of the following:

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

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

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

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

Family: **One (1) person**, or **two (2) 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.

Floor Area, Ratio: The gross floor area of a building or buildings occupying a parcel of land divided by the area of the parcel of land.

Garage: Unless designated otherwise, shall be used to define a building or part of a building for housing vehicles for private storage.

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

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

Hotel or Motel: A building for rent to transients which may include bedrooms, dining and entertainment rooms.

Immobilized Mobile Home: Any structure resting on a permanent foundation with wheels, tongue and hitch permanently removed served by individual utilities, delivered on a steel frame that is a permanent part of the floor system, conforming to the specifications for sectional housing prescribed by the U.S. Department of Housing and Urban Development and which are posted with the seal of the U.S. Department of Housing and Urban Development, and the home secured in compliance with the **Mobile Home Tiedown Act, Chapter 210; Sec. 120/1 et seq. of the Illinois Compiled Statutes**. The following criteria is necessary, at a minimum, to complete immobilization of a mobile home:

(A) The foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Material such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. **(Revised 12-03-01)**

(B) The wheels, tongue and hitch must be permanently removed. Wheels must be removed in such a manner that they may not be easily replaced. Therefore, either the axle would have to be removed or at least the lug bolts holding the wheels to the axle removed. The tongue and hitch must be removed by either removing the tongue and hitch from the frame or removing the bolts holding the tongue and hitch to the frame.

(C) A minimum nominal roof pitch of 3/12 shall be required for an immobilized mobile home. **(Revised 12-03-01)**

Intensify: To increase the level or degree of.

Industrial: The area used for manufacturing of any product.

Intersection: The point at which **two (2)** or more public rights-of-way (generally streets) meet.

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

Kennel: Any structure or part thereof and/or any part of a lot on which more than **three (3)** dogs, cats, or other household domestic animals over **four (4) months** of age are kept.

Loading Area (Off-Street): A space, accessible from a street, alley or way for the temporary parking of a vehicle, where materials and merchandise may be loaded and unloaded.

Lodging Room: A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as **one (1)** lodging room.

Lot: A parcel of land, whether legally described as **one (1)** or more lots or parts of lots, and which is occupied or intended for occupancy by **one (1)** principal building or principal use, including business or dwelling, together with any accessory structures and such open spaces as are required by this Code, and having street frontage.

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)** 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 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, usually at the established building line.

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

Manufactured Housing: A partially constructed, factory-fabricated dwelling that is substantially assembled on site utilizing pre-manufactured components and having at a minimum the following specifications: masonry or concrete foundation, or basement of a permanent nature; residential siding; residential roof with a minimum nominal roof pitch of 5/12; minimum **nine hundred sixty (960) square feet** of living space exclusive of garages, porches or attachments; minimum **six (6) inch** eave overhang including guttering where applicable; interior drywall; drain lines stubbed through the floor; and for multi-section units, the length shall not exceed **four (4) times** the width. All manufactured housing must bear the State of Illinois Modular seal and shall become real property and be taxed as such after location upon its lot. The term "**manufactured housing**" specifically excludes any structure defined herein as a "**mobile home**" or "**immobilized mobile home**" and any sectional home with a separate Secretary of State title and sold with sales tax charged to the purchaser. **(Revised 12-03-01)**

Mobile Home: A manufactured 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 located as a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1) family**. A mobile home should not be confused with a camping trailer (or recreational vehicle) which are not mobile homes within this definition. **(Revised 12-03-01)**

Mobile Home Park: A parcel not less than **one (1) acre** in area in single ownership/control, developed with facilities for accommodating occupied mobile homes.

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

- (A) lawfully existing on the effective date of this Code, 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.

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

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

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

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.

Residence: A "**dwelling**" as herein defined, but not including a "**mobile home**" as herein defined, or an "**immobilized mobile home**" as herein defined, but not excluding "**manufactured housing**" as herein defined. **(Ord. No. 94-01; 02-07-94)**

Restrictive: Tending to keep within prescribed limits.

Retail: Refers to the sale of goods and services directly to the consumer rather than to another business.

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

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

Service Use/Establishment: Any use or establishment where services are provided for remuneration either to individuals or to other firms.

Setback: The minimum horizontal distance between a street line and;
(A) The nearest wall of a building or side of a structure facing such street line, or

(B) The edge of the area of operation of a principal use involving no building or structure.

Sign: Any object, device, display, or structure or part thereof used to advertise, identify, display, or attract attention to any object, person, institution, organization, business, product, service, or event by any means including words, letters, figures, designs, symbols, fixtures, colors, or illumination.

Sign, Freestanding: Any sign supported by **one (1)** or more uprights, poles, or braces placed in or upon the ground in a permanent manner.

Skirting: The covering affixed to the bottom of the exterior 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.

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

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

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

Stringent: Binding, exacting.

Structure: Anything constructed or erected on the ground, or attached to something having fixed location on the ground. All buildings are structures, but not all structures are buildings.

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

Travel Trailer: A mobile structure designed for temporary occupancy.

Travel Trailer Park: A lot developed with facilities for accommodating temporarily occupied travel trailers.

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

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

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

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

Village: The territory or local government of the Village of Dawson, Illinois.

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 Code and that is located on the same lot as the principal building.

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

Yard, Rear: A yard which is bounded by side lot lines, rear 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 at any point than the required depth or width of the yard.

Zoning Map: The map(s) and any amendments thereto designating zoning districts, and incorporated into this Code by reference.

ARTICLE III – GENERAL ZONING REGULATIONS

40-3-1 DISTRICTS. In order to carry out the provisions and purposes of this Code, all land lying within the corporate limits of the Village is hereby divided into the following districts with the following corresponding permitted uses:

<u>ZONING DISTRICT</u>	<u>PERMITTED USES</u>
A	Agriculture and uses incident and necessary for agriculture.
R-1	Single-Family Residence and uses incident and supportive thereof, i.e., churches, schools, parks, athletic fields.
R-2	Uses permitted in the R-1 District and Two-Family Residence.
R-3	Uses permitted in the R-2 District; and Multiple Family, attached dwelling units.
R-4	Mobile Homes and Mobile Home Parks and uses permitted in the R-2 District.
R-5	Permanent, Single-Family Dwelling Unit, excluding mobile homes, immobilized mobile home parks, but including manufactured housing as defined in this Code and used for single-family dwelling purposes. (Ord. No. 94-01; 0-2-07-94)
B	Business and accessory uses but not including the keeping or propagation of pigeons, poultry, livestock – whether or not for profit.
I	Industrial.
P	Public and Community Uses.

40-3-2 ZONING MAP AND DISTRICT BOUNDARIES. The boundaries of the listed zoning districts are hereby established as shown on the Village’s official zoning map. Said official map, including all notations and other information thereon, is hereby made a part of this Code by reference. The official zoning map shall be kept on file in the office of the Village Clerk.

40-3-3 ANNUAL PUBLICATION. In accordance with State Law (**65 ILCS Sec. 5/11-13-19**), the Board of Trustees shall publish the Village zoning map not later than **March 31st** of each year if there have been any changes in zoning regulations or district boundaries during the preceding calendar year.

40-3-4 DETERMINING TERRITORY OF DISTRICTS WITH PRECISION. In determining with precision what territory is actually included within any zoning district, the Board of Trustees 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 centerline. |
| (2) | Lot line | Such lot line. |
| (3) | Railroad tracks | Right-of-way line of such
track. |
| (4) | Stream | Center of such stream. |
| (5) | Section lines, quarter section lines,
quarter-quarter section lines,
survey lines | Such lines. |

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

40-3-5 ANNEXED TERRITORY. Upon the effective date of this Code, whenever any territory is annexed to the Village, the Board of Trustees shall determine its district classification at the time of annexation.

40-3-6 GENERAL PROHIBITIONS. Hereafter, within the zoning jurisdiction of the Village of Dawson, 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 Code.

40-3-7 UNLISTED USES PROHIBITED. Whenever any use is not specifically listed as permitted or special within a particular zoning district, the use shall be deemed prohibited in that district. However, if the Board of Trustees, following consultation with the Administrator and the Board of Appeals, finds that the unlisted use is similar to and compatible with the listed uses, they may allow such use by amending this Code in accordance with **Section 40-9-21.** The Board of Trustees' decision shall become a permanent public record, and any unlisted use that they approve shall thereafter have the same status as listed uses.

40-3-8 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise elsewhere in this Code, every lot must meet the minimum area, minimum dimensions, and minimum setbacks requirements of the district in which it is located independently; that is, without counting any portion of an abutting lot.

40-3-9 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.

40-3-10 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.

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

<u>FEATURES</u>	<u>MAXIMUM INTRUSIONS</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	No limit.
(D) Porches, if unenclosed and at ground level	Six (6) feet.
(E) Balconies	Four (4) feet.
(F) Canopies, roof overhangs	Four (4) feet.

40-3-12 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 for the district in which they are located.

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

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

(A) Whenever the public sanitary sewerage system is reasonably available, all sewage shall be discharged into such system, whether or not a private sewerage system already exists or is more convenient.

(B) Whenever the public sewerage system is not reasonably available, a private sewerage system shall be installed and used. All private sewerage systems 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, (**Ill. Comp. Stat., Ch. 225; Sec. 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.

40-3-14 ACCESSORY USES. Any accessory use shall be deemed permitted in a particular zoning district if such use:

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

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

40-3-15 ACCESSORY USE RESTRICTIONS.

(A) Only **one (1)** accessory use shall be situated on any lot located in the R-1 District; not more than **two (2)** accessory uses shall be situated on any lot

located in the R-2 District. Provided, that these limits shall not apply to accessory agricultural structures.

- (B) No accessory use in any zoning district shall:
 - (1) be used as a dwelling;
 - (2) be located closer than **five (5) feet** to any side or rear lot line;
 - (3) be higher than **fifteen (15) feet**—provided, that there shall be no height limit on accessory agricultural structures;
 - (4) be located in any front yard; or
 - (5) cover more than **twenty percent (20%)** of any required rear yard.

40-3-16 **SIGN REGULATIONS.**

(A) **All Signs.**

- (1) **Illumination.** Any sign in the Village may be lighted, provided that:
 - (a) the light source is shaded, shielded, or directed so as to avoid the creation or continuation of any nuisance or traffic hazard; and
 - (b) only steady (not blinking/flashing) illumination is permitted.
- (2) **Proper Maintenance.** Every sign shall be maintained in a neat and attractive condition by its owner. The sign supports shall be kept painted/treated to prevent rust or deterioration.

ARTICLE IV

ZONING DISTRICT REGULATIONS

40-4-1 **SCHEDULE OF DISTRICT REGULATIONS.** District regulations shall be as set forth in the Schedule of District Regulations, attached to and hereby made a part of this Article and of this Code.

40-4-2 **SUPPLEMENTARY REGULATIONS.** In addition to the requirements listed in the Schedule of District Regulations, the following supplementary regulations shall also apply to said districts:

(A) **A – Agriculture.** This classification shall permit any agriculture use which includes the growing of crops or animals, the storage of grains and preparation of feeds for such uses. One single-family dwelling may be built for the owner and one single-family dwelling for each employee for each agriculture unit. Buildings for animals, equipment storage and grain storage shall be limited only to the amount required for each agriculture unit. All land lying outside the corporate limits is hereby designated as A – Agriculture.

(B) **B – Business.** Commercial enterprises other than residential, trailer park, industrial and public uses, are included in the business district.

(C) **R – Residential.** Occupation of premises for residence use shall include districts for single family, duplex, multi-family, mobile homes and immobilized mobile homes, and exclusively, single-family, and shall be subject to the following regulations:

- (1) No lot in a residential district shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family or duplex dwelling and private garage, except multi-family or apartment buildings, and a utility building; a permit shall be obtained through the Village Board of Trustees.
- (2) No new single-family residence or dwelling shall be constructed or placed on any lot, with a living area of less than **nine hundred sixty (960) square feet.**
- (3) No newly constructed building, or any part thereof, shall be located on any lot nearer than **twenty-five (25) feet** from the front lot line, unless adjoining properties are closer than **twenty-five (25) feet**, and then no closer than the adjoining properties, and no building, or any part thereof, shall be located less than **five (5) feet** from an interior lot line.
- (4) All newly constructed dwellings and indoor toilets shall have sanitary facilities.
- (5) No outdoor privies, privy vault, or toilets shall be erected.

- (6) No noxious or offensive activity shall be carried upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- (7) No lot shall be used or maintained as a dumping ground or rubbish, trash, garbage, or other waste and no such debris/materials shall be kept except in appropriate waste receptacles. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition.
- (8) No structure of a temporary character, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at anytime as a residence, temporarily for a period in excess of **two (2) years**.
- (9) No new single-family residence or other dwelling shall be constructed or placed on any lot on which there is inadequate drainage. Determinations as to the adequacy of drainage of land shall be made by the Board of Trustees.
- (10) No mobile home, immobilized mobile home nor mobile home park shall be located in R-5 Zoning District.
- (11) Invalidation of any one of these covenants by judgment or Court Order shall in no way effect any of the other provisions which shall remain in full force and effect.
- (12) These covenants are to run with the land and shall be binding on all parties and all persons claiming under them.

(D) **I – Industrial.** Any establishment engaged in production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products.

(E) **P – Public Uses.** Public uses shall be defined under Public Space under **Section 40-1-2 “Definitions”**, and shall be liberally construed to effect betterment of the public interest. Future areas to be used in this matter require the submission of a plot plan. No filing fee will be required.

(F) **Nonconforming Uses.** When the districts established by this Code or amendments that may later be adopted, there exist lots, structure, uses of land and structures, and characteristics of use, which were lawful before this Code was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Code or future amendment. It is in the intent of this Code to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Code that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Code to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and a 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.

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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.

ARTICLE V

MOBILE HOMES

40-5-1 **MOBILE HOMES.** Mobile homes on individual lots (as opposed to mobile home parks) shall comply with all of the following supplementary regulations.

40-5-2 **SAME LOT SIZE/SETBACKS/REPLACEMENTS.** No mobile home or immobilized mobile home shall be placed on any individual lot unless the district's minimum lot size and setback requirements are strictly observed. Further, no mobile home or immobilized mobile home shall be located on any lot in replacement of any existing mobile home or immobilized mobile home unless the replacement mobile home or immobilized mobile home is no more than **ten (10) years** old at the time of replacement as is shown on the title to the replacement mobile home or immobilized mobile home.

40-5-3 **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.

40-5-4 **STAND.** Every mobile home shall be placed on a stand to provide adequate support therefor. The stand shall extend the length of the supports of the mobile home, and shall consist of either **six (6) inch** thick reinforced concrete runners or a **four (4) inch** thick reinforced concrete slab.

40-5-5 **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.

40-5-6 **SKIRTING.** Every mobile home shall be skirted with fire-resistant materials. 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.

40-5-7 **H.U.D. REQUIREMENTS.** All mobile homes placed on any individual lot or mobile home parks must be manufactured post 1976 and meet all H.U.D. standards.

NOTE: All mobile home owners must execute agreement as required by federal emergency management agency prior to the placement of a mobile home in a flood zone as designated by FEMA.

40-5-8 MOBILE HOME PARKS. After the effective date of this Code, no mobile home park shall be established except in conformity with the requirements of the sections below.

40-5-9 COMPLIANCE WITH ILLINOIS LAW. Every mobile home park shall, at a minimum, conform to the requirements of:

(A) "An Act to provide for, license, and regulate mobile homes and mobile home parks" (**210 ILCS 115/1 et seq.**), as amended from time to time; and

(B) "Rules and Regulations for Mobile Home Parks," Illinois Department of Public Health, Consumer Protection Division, as amended from time to time.

40-5-10 MINIMUM LOT AREA, SETBACKS, ETC.

(A) **Minimum Lot Area.** No mobile home park shall be located on a tract less than **one (1) acre** in area.

(B) **Minimum Dimensions.** No mobile home park shall be developed on any tract that is less than **two hundred (200) feet** in both width and depth.

(C) **Minimum Setbacks.** No mobile home or other structure in any mobile home park shall be situated closer than **twenty-five (25) feet** to any lot line of the park.

(D) **Maximum Height.** No structure in any mobile home park shall be greater than **thirty-five (35) feet** in height.

40-5-11 SPACING OF MOBILE HOMES. Mobile homes within any park shall be placed so that no part of any mobile home is closer than:

(A) **ten (10) feet** to any part street;

(B) **twenty-five (25) feet** to any lot line of the park; or

(C) **twenty (20) feet** to any part of any other mobile home or structure.

40-5-12 MOBILE HOME SPACE IMPROVEMENTS. Each mobile home space shall be improved in accordance with the following requirements:

(A) **Mobile Home Stand.** Each space shall have a stand to provide adequate support for the placement and tie-down of the mobile home. The stand shall extend the length of the supports of the mobile home, and shall consist of either **six (6) inch** thick reinforced concrete runners or a **four (4) inch** thick reinforced concrete slab.

(B) **Anchors.** No mobile home in a mobile home park shall be immobilized, but anchors capable of withstanding a vertical tension force of **four thousand eight hundred (4,800) pounds** shall be installed at the corners of each stand or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors.

(C) **Off-Street Parking.** Each mobile home space shall have **two (2)** off-street parking spaces.

ARTICLE VI

PLANNED UNIT RESIDENTIAL DEVELOPMENT

40-6-1 **STATEMENT AND DESIGNATION.** The Village Board does hereby affirm the following "Statement of Objectives" for planned unit residential development.

(A) The Village in 1993 has a population of **five hundred (500)**.

(B) Most all of the present residents are now housed in detached single-family dwellings, including numerous single-family dwellings in a trailer park residential district.

(C) The industrial and business development is expected to occur in the vicinity of the approximate center of the existing Village.

(D) It is intended that in the established areas of the Village, the detached single family character will be maintained, with duplex and multiple family residential areas to be developed as indicated on the zoning map attached to the Code.

(E) The Village is prepared to accept a greater dwelling unit density in the development areas than they reflected by present zoning, provided:

- (1) proposals for development are not inconsistent with present use of Village properties which may be changed or varied from time to time;
- (2) the Village and developers are willing to agree upon a program of sewer disposal and waters supply;
- (3) the developer can demonstrate that any increased cost to the public because of increased densities will be compensated for by the private amenities and public benefits to be achieved by the plan of development.

40-6-2 **APPLICATION OF PLANNED UNIT RESIDENTIAL DEVELOPMENT AREA.**

(A) The provisions of this Section shall apply only to a tract of land proposed to be developed for **ten (10)** or more dwelling units, which tract is under single ownership, and for which an application for a planned unit residential development is made.

(B) Notwithstanding the provisions of Paragraph (A) of **Section 40-6-2**, an application for planned unit residential development on a tract of land for less than **thirty (30)** dwelling units may be filed and a public hearing shall be held thereon.

40-6-3 **PERMITTED USES.** The uses permitted in a planned unit residential development area include and are limited to:

(A) Dwelling units in detached, semi-detached, or any combination thereof.

(B) Non-residential uses of a religious, cultural, recreational and commercial character to the extent that they are designed and intended to serve primarily the residents of the immediate area.

(C) No commercial use, nor any building devoted primarily to a commercial use, shall be built or established prior to the residential buildings.

40-6-4 STANDARDS AND CRITERIA FOR PLANNED UNIT RESIDENTIAL DEVELOPMENT. A plan shall be consistent with the following general standards for use of land and the use, type, bulk, design and location of buildings, the density or intensity of use, the public facilities and the development by geographic division of the site:

(A) The plan may provide for a variety of housing types.

(B) The total ground area occupied by buildings and structures shall not exceed **forty percent (40%)** of the total ground development in the neighborhood of the planned unit residential development has a greater ground coverage, in which case the plan may increase the ground coverage of buildings and structures to correspond with the average coverage in the neighborhood. For purposes of this subsection, total ground area shall be computed as follows: (Area in square feet of the proposed lands for development as a planned unit.)

(C) The burden shall be on the landowner to show that non-residential uses of a commercial character are intended to serve principally the residents of the planned unit residential development. No building designed or intended to be used in part or in whole, for commercial purposes shall be constructed prior to the construction of not less than **seventy-five percent (75%)** of the dwelling units proposed in the Plan.

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

(E) The Plan Commission may designate divisible geographic sections of the entire parcel to be developed as a planned unit residential development, and shall, in such cases, specify reasonable periods within which development of each such section must be commenced, and may permit in each section deviations from the number of dwelling units per acre established for the entire planned unit residential development, provided such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre authorized for the entire planned unit residential development is not affected. The period of the entire development and commencement date for each section thereof may be modified from time to time by the Plan Commission upon the showing of good cause by the landowner, provided that in no case shall any extension of time exceed **five (5) years**. The landowner shall make such easements, covenants and other arrangements and shall furnish such performance bond in an amount which is equal to the estimated cost of such required improvements plus **fifty percent (50%)** thereof to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of said plan before completion.

(F) The uniqueness of each proposal for a planned unit residential development requires that the specifications for the width and surfacing of streets and highways, alleys, ways for public utilities, for curbs, gutters, sidewalks, street lights, public parks and playgrounds, school grounds, surface water drainage, water supply and distribution, sanitary sewers and sewage collection and treatment shall be subject to modification from the specifications established in that Code known as the Subdivision Code of the Village. The Plan Commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for a particular public facility where the Plan Commission finds that such specifications are not required in the interests of the residents of the planned unit residential development and that the modifications of such specifications are not inconsistent with the interests of the entire Village.

40-6-5 APPLICATION FOR TENTATIVE APPROVAL OF PLANNED UNIT RESIDENTIAL DEVELOPMENT.

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

(B) The application for tentative approval shall be executed by or on behalf of the landowner and filed in duplicate with the Secretary of the Plan Commission. A filing fee in the amount of **Seventy-Five Dollars (\$75.00)**, payable to the Village Clerk, shall be submitted to the Village Clerk. Said filing fee shall be used to defray the cost of the public hearing by the Village Planning Commission.

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

- (1) the location and size of the area involved in the nature of the landowner's interest in the land proposed to be developed;
- (2) the density of land use to be allocated to parts of the area to be developed;
- (3) the use, approximate height, bulk and location of buildings and other structures;
- (4) the storm water;
- (5) the substance of covenants, grants of easements or other restrictions to be imposed upon the use of the land, buildings, and structures including proposed easements for public utilities;
- (6) the provisions for parking of vehicles and the location and width of proposed streets and public ways and the relationship of proposed streets and other public facilities to similar public facilities in proximity to the proposed planned unit residential development;
- (7) the required modifications in the regulations otherwise applicable to the subject property; and

(8) in the case of plans which call for development over a period of years, a schedule showing the time within which applications for final approval of all parts of the planned unit residential development are intended to be filed.

(D) The application shall also be accompanied by a written statement by the landowner setting forth the reasons why, in his opinion, the planned unit residential development would be in the public interest and would be consistent with the Village's Statement of Objectives for Planned Unit Residential Development and with the specific criteria, if any, theretofore published by the Plan Commission.

40-6-6 PUBLIC HEARING.

(A) Within **sixty (60) days** after the filing of an application pursuant to E above, a public hearing on the application shall be held by the Plan Commission public notice of which hearing shall be given in the manner prescribed in this Code for hearing on amendments. The Chairman, or in his absence, the Acting Chairman, of the Plan Commission may administer oaths and compel the attendance of witnesses. All testimony by witnesses at any hearing shall be given under oath and every party of record at a hearing shall have the right to cross-examine adverse witnesses.

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

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

40-6-7 FINDINGS OF PLAN COMMISSION AFTER HEARING. The Plan Commission shall, within **sixty (60) days** following the conclusion of the public hearing provided for in **Section 40-6-6** above, either (1) grant tentative approval of the plan as submitted, (2) grant tentative approval subject to specified conditions not included in the plan as submitted, or (3) deny tentative approval to the plan. Failure of the Plan Commission to act within said period shall be deemed to be a grant of tentative approval of the plan as submitted. In the event tentative approval is granted, other than by lapse of time, either of the plan as submitted or with conditions, the Plan Commission shall, as part of its resolution, set forth the drawings, specifications, comments, easements and conditions, and form a bond that shall accompany an application for final approval.

40-6-8 STATUS OF PLAN AFTER TENTATIVE APPROVAL.

(A) Within **five (5) days** after the adoption of the resolution it shall be certified by the Village Clerk and shall be filed in his office, and a certified copy shall be mailed to the

landowner. Where tentative approval has been granted, the same shall be noted on the zoning map maintained in the office of the Village Clerk.

(B) Tentative approval of a plan shall not qualify a plat of the Planned Unit Residential Development for recording.

40-6-9 APPLICATION FOR FINAL APPROVAL.

(A) An application for final approval may be filed for all the land included in a plan or for a section thereof. The application shall be filed with the Secretary of the Plan Commission within such time as specified in the resolution granting tentative approval. The application shall include such drawings, specifications, covenants, easements and conditions and form of bond as were set forth by resolution at the time of tentative approval.

(B) A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval provided by modification by the landowner of the plan as tentatively approved does not:

- (1) vary the proposed gross residential density or intensity of use by more than **ten percent (10%)**;
- (2) increase by more than **ten percent (10%)** the floor area proposed for non-residential use;
- (3) increase by more than **five percent (5%)** the total ground area covered by buildings.

A public hearing shall not be held to consider modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewerage.

ARTICLE VII

OFF-STREET PARKING AND LOADING

40-7-1 **APPLICABILITY OF ARTICLE.** Off-street 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 Code.

40-7-2 **EXISTING PARKING/LOADING FACILITIES.**

(A) Existing off-street 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, off-street 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 addition of dwelling units, increased floor area, greater seating capacity, etc., additional off-street parking commensurate with such increases in use-intensity shall be provided.

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

40-7-3 **PARKING LOT DESIGN STANDARDS.** All off-street parking lots shall conform to the standards set forth in the subsections below:

(A) **Spaces.** Each required 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 right-of-way.

(B) **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 parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **eighteen (18) feet** wide.

(C) **Access Ways.**

(1) Parking lots shall be designed so that ingress to and egress from a parking space is from an aisle or driveway, not directly from the public right-of-way.

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

- (3) Parking area access ways and public streets shall be aligned to form--as closely as feasible--right angles.
 - (4) The access way to every parking lot located containing **sixteen (16)** or more parking spaces shall be at least **twenty-four (24) feet** wide unless **two (2)** one-way drives, each **twelve (12) feet** wide, are provided. The access way to any parking lot containing fewer than **sixteen (16)** parking spaces shall be at least **twelve (12) feet** wide.
- (D) **Surfacing.** Every off-street parking lot shall be improved with a compacted stone base at least **seven (7) inches** thick.

40-7-4 LOCATION OF OFF-STREET 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 multi-family 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 Use.** In the Commercial or Industrial Districts, off-street 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.

40-7-5 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES.

If provided, all off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size Of Space.** Every off-street 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-of-way.

(B) **Access Way.** Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least **twelve (12) feet** wide.

(C) **Surfacing.** Every off-street loading space shall be improved with a compacted stone base at least **seven (7) inches** thick.

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

(E) **Location.** Every off-street loading space shall be located on the same parcel of land as the use served, and not closer than **fifty (50) feet** to the intersection of the rights-of-way of **two (2)** or more streets, and not on required front yards.

40-7-6 NUMBER OF PARKING SPACES REQUIRED. Off-street parking spaces shall be provided as indicated in the Schedule of Zoning District Regulations attached hereto.

ARTICLE VIII

BUILDING PERMIT, APPLICATION AND FEE

40-8-1 **PERMIT REQUIRED.** A permit shall be required to construct any new building, change the outside structure of any existing building, or to alter or remodel any building or structure so as to change the bearing walls, beams, style, support, or the roof thereof, where the cost of such construction shall exceed **One Hundred Dollars (\$100.00)**.

40-8-2 **APPLICATION.** Applications for such permits shall be made to the Village Board, and shall be accompanied by plans and specifications showing the work to be done; such plans shall be verified by the signature either of the owner of the premises or by the architect or contractor in charge of operations. Such application with plans shall be approved by the Village Board or a duly appointed representative. No permit shall be issued except after the approval of the plans and the payment of the fee provided herein.

40-8-3 **FEEs.** The fees assessed for a permit for new construction, alteration or remodeling, as provided herein, with payment of the same to accompany each application, are as follows:

<u>Construction, Alteration, Remodeling Costs</u>	<u>Fee</u>
\$5,000.00 or less	\$50.00
Greater than \$5,000.00	\$100.00

(05-03-04)

40-8-4 **FILING FEES.** By resolution, the Board of Trustees may establish and amend from time to time, a schedule of filing fees for the various permits and procedures listed in this Code. Said fees are intended to defray the administrative costs connected with the processing/conducting of such permits of procedures; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid by the applicant to the Village Clerk.

40-8-5 **COMMENCEMENT AND COMPLETION OF CONSTRUCTION.** Any construction of buildings or structures for which a building permit is issued under this Article shall be commenced within six months of issuance of the building permit by the Village and completed within one year after commencement. If the structure is not commenced and completed within such time, a new building permit will be required before construction can commence for the permitted construction.

(Revised 08/02/10)

ARTICLE IX

NONCONFORMITIES

40-9-1 **PURPOSE OF ARTICLE.** The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located impede the requirements of the district in which they are located 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 in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.**

40-9-2 **NONCONFORMING LOTS.** Any vacant lot that does not conform to **one (1)** or more lot size (area, dimensions) requirements of the district in which it is located may, nonetheless, be used for any use permitted in that district if such vacant lot:

- (A) was recorded in the County Recorder of Deeds office prior to the adoption or amendment of this Code; and
- (B) is at least **thirty (30) feet** wide.

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

40-9-4 **NONCONFORMING STRUCTURES.** Any lawful structure which exists on the effective date of this Code but which could not be erected under the terms of this Code because of restrictions on 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) **Enlargement, Alterations.** No such structure shall be enlarged or altered in any way which increases its nonconformity.
- (B) **Relocation.** No such structure shall be relocated unless, after relocation, it will conform to all the regulations of the district in which it is located.
- (C) **Reconstruction.** No such structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless after

reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion.

The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

40-9-5 NONCONFORMING USES. Any otherwise lawful use existing on the effective date of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Enlargement, Alteration, Reconstruction.** No structure housing a nonconforming use shall be enlarged, structurally altered, or reconstructed unless the use of the structure is changed to a permitted use.

(C) **Expansion/Intensification of Use.** No nonconforming use occupying a structure may be expanded to any part(s) of the structure not intended or designed for such use, nor shall such nonconforming use be extended to occupy any land outside such structure. Similarly, no nonconforming use of land shall be intensified, or extended to occupy a greater area of land than was occupied by such use on the effective date of this Code.

(D) **Relocation.** No nonconforming use shall 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.

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

(F) **Discontinuance.** When a nonconforming use is discontinued for a period of **thirty (30)** consecutive days, it shall not thereafter be resumed, and any subsequent use of such land 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.

(Revised 01/07/12)

40-9-6 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 Code or any pertinent amendment thereto provided that the work authorized by such permit is completed within a reasonable time.

ARTICLE X

ADMINISTRATION AND ENFORCEMENT

40-10-1 BOARD OF TRUSTEES, ZONING ADMINISTRATOR; DUTIES.

At such time that it deems necessary, the Board of Trustees may establish the office of Zoning Administrator.

Unless and until such office of Zoning Administrator is established, at which said time the Administrator will undertake the below-listed responsibilities, the Board of Trustees is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) to review and pass upon application for initial and final certificates of zoning compliance;
- (B) to inspect land, structures, and uses to determine compliance with this Code, and where there are violations, to initiate appropriate corrective action;
- (C) to review and forward to the Zoning Board of Appeals all applications for special use permits, variances, appeals, and amendments;
- (D) to maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special use permits, variances, interpretative decisions by the Board of Appeals, amendments, and all applications related to any of these matters;
- (E) to periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the Zoning Board of Appeals at least once each year;
- (F) to republish this Code, (including the district map), if any changes made during the previous year;
- (G) to provide information to the general public on matters related to this Code; and
- (H) to perform such other duties as the Board of Trustees may from time to time prescribe.

40-10-2 INITIAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Code, no land shall be created, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until an initial certificate of zoning compliance has been issued. The Board of Trustees shall not issue an initial certificate of zoning compliance unless, he determines that the proposed work conforms to the applicable provisions of this Code.

40-10-3 APPLICATION. Every applicant for an **Initial Certificate of Zoning Compliance** shall submit to the Board of Trustees, in graphic and/or narrative form, all the items of information listed below that are applicable to the particular project. The Board of Trustees shall decide which items are applicable. (**NOTE: Filing fee required.**)

ITEMS OF INFORMATION:

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

40-10-4 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 Board of Trustees 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.

40-10-5 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot or part thereof recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used, occupied, or put into operation until a final certificate of zoning compliance has been issued. The Board of Trustees shall not issue a final certificate of zoning compliance until he has been determined, **by inspection**, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

40-10-6 CORRECTIVE ACTION ORDERS. Whenever the Board of Trustees find, by inspection or otherwise, that any lot, structure, or use, or work thereon, is in violation of this Code, he shall so notify the responsible party, and shall order appropriate corrective action.

40-10-7 CONTENTS OF CORRECTIVE ACTION 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 Board of Trustees if he so desires;
- (F) The date by which an appeal of the correction action order must be filed, and a statement of the procedure for so filing; and
- (G) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

40-10-8 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.

40-10-9 STOP ORDERS. Whenever any work being done in violation of an **Initial Certificate of Zoning Compliance**, the Board of Trustees' corrective action order may state that the violation must cease immediately. **(See Sec. 40-10-7(D))** In such case, the corrective action order is equivalent to a stop order.

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

40-10-11 COMPLAINTS. Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Board of Trustees. The Board of Trustees shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-10-12 PENALTIES.

(A) Any person who is convicted of a violation of this Code shall be fined not less than **Fifty Dollars (\$50.00)**, nor more than **Two Hundred Dollars (\$200.00)**, for each offense. Each day that a violation continues shall be considered a separate offense.

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

ARTICLE XI

ZONING BOARD OF APPEALS

40-11-1 ZONING BOARD OF APPEALS.

(A) **Creation.** A Board of Appeals, consisting of **seven (7) members**, is authorized in accordance with Division 13 Zoning of the Illinois Municipal Code. The members shall be appointed by the President with the advice and consent of the Board of Trustees and 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**, the successor to each member so appointed will serve for a term of **five (5) years**. **One (1)** of the members of the Board shall be designated by the Mayor, with the advice and consent of the Village Board, as Chairman of the Zoning Board, and shall hold his office as Chairman until his successor is appointed. Vacancies on the Zoning Board shall be filled for the unexpired term of the member whose place has become vacant in the manner herein provided for the appointment of such member.

Neither the President of the Village nor current members of the Village Board of Trustees shall be so appointed to the Zoning Board of Appeals.

(B) **Duties and Responsibilities.** The Zoning Board of Appeals shall:

- (1) Hear and decide appeals from and review any order requirement, decision, or determination of the Director of Building and Zoning charged with the enforcement of this Code.
- (2) Hear all requests for zoning changes and variances and recommend action to the Board of Trustees.
- (3) Hear and decide any other matters referred to it concerning zoning.

(C) **Procedure.** The Board of Appeals shall be governed by statutory procedures, as provided by the Municipal Code, **Section 11-13-3, Paragraph (D), Chapter 65, ILCS, 1992 Edition**, as amended, and as listed below, but where there are no statutory provisions, the Board of Appeals may adopt such further rules of procedure and forms, as it may deem necessary:

- (1) **One (1) member** shall be named as Chairman at the time of his or her appointment.
- (2) The President and Board of Trustees may remove any member for cause after public hearing.
- (3) Vacancies shall be filled for the unexpired term of the member whose place has become vacant.
- (4) All meetings of the Board of Appeals shall be open to the public.
- (5) 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.
- (6) The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.

- (7) 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 actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall immediately be filled in the Office of the Village Clerk and shall be of public record.
- (8) No hearing shall be conducted without a quorum of a majority of all the members. Any absent member who certifies that he has read the transcript of the proceedings before the Board may vote upon any questions before the Board.
The concurring vote of **four (4) members** of the Zoning Board of Appeals is necessary to reverse or affirm wholly or partly, any order, requirements, decision or determination made by the Director of Building and Zoning, or to decide in favor of the applicant any matter upon which it is required to pass under this Code or to effect any variation in this Code, or to recommend any variation or modification in the Code to the Village Board.
- (9) Each rule and regulation, each amendment or repeal thereof, and each order, requirement, decision or determination of the Board shall be made available as a public record. There shall be no compensation paid to the Chairman and members of the Board of Appeals, but upon application, the Village shall pay for such out-of-pocket expenses and clerical assistance as are defrayed by the filing fees collected.

(D) **Jurisdiction and Authority.** The Zoning Board of Appeals is hereby invested with the powers as granted by the Statutes of the State of Illinois and this Code as follows:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by the Board of Trustees pertaining to conformance with requirements of this Code and to make recommendations to Village Board of Trustees for final decisions.
- (2) To hear and recommend action for decision by the Village Board varying the terms provided in this Code. The recommendations shall be subject to the standards set forth in this Section.
- (3) To hear and make recommendations for the Village Board decision on any proposed amendments to this Code.
- (4) To hear and recommend for decision by the Village Board only such special uses as the Zoning Board of Appeals is specifically authorized to by the terms of this Code; recommend for decision to such questions as are involved in determining whether special uses should be granted; and to recommend to special uses with such

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conditions and safeguards as are appropriate under this Code, or to recommend for denial special uses when not in harmony with the purpose and intent of this Code; and

- (5) To hear and decide all matters referred to or upon which it is required to pass under this Code.

(E) **Decisions.** All decisions of the Board of Trustees shall, in all instances, be final administrative determinations subject to judicial review in accordance with applicable Statutes of the State of Illinois.

(F) **Application Fee/Publication Costs.** A fee of **One Hundred Dollars (\$100.00)** shall be paid in advance by the applicant at the time of submitting an Application for any amendment to the regulations of the Zoning Code, which requires hearing by the Zoning Board of Appeals, and pay any charges for required publication of notices and documents, immediately upon request therefor.

ARTICLE XII

VARIANCES

40-12-1 VARIANCES.

(A) **Initiation.** A written application for a variance may be made by any person, firm or corporation or by any office, department, board, bureau or commission, requesting or intending to request application for a zoning certificate.

(B) **Processing.**

(1) An application for a variance shall be filed with the Board of Trustees who shall forward such application to the Zoning Board of Appeals for processing in accordance with applicable Statutes of the State of Illinois.

(2) No variance shall be recommended to the Village Board by the Zoning Board of Appeals except after a public hearing before the Zoning Board of Appeals, of which there shall be a notice of time and place of the hearing published at least once – not more than **thirty (30)** or less than **fifteen (15) days** before the hearing – in **one (1)** or more newspapers with a general circulation within the Village and a written notice is served at least **fifteen (15) days** before the hearing on the owners of the properties located adjacent to the location for which the variance is requested.

(C) **Standards.**

(1) The Zoning Board of Appeals shall not vary the provisions of this Code as authorized in this Section unless it shall have made findings based upon the evidence presented in writing that each of the following conditions exist:

(a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the zoning district in which it is located;

(b) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

(c) That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code;

(d) That the plight of the applicant is due to unique circumstances and does not result from the actions of the applicant;

- (e) That granting the 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;
- (f) That the variation, if granted, will not alter the essential character of the locality.
- (2) No nonconforming uses of neighboring lands or structures, in the same district, and no permitted, special or nonconforming uses of lands or structures in other districts shall be considered grounds for the issuance of a variance.
- (3) The Zoning Board of Appeals may require such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set forth in this Chapter to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and to implement the general purpose and intent of this Code.

(D) **Application Fee/Publication Costs.** A fee of **One Hundred Dollars (\$100.00)** shall be paid in advance by any applicant at the time of submitting an application for a variation to the regulations of the Zoning Code, which requires hearing by the Zoning Board of Appeals, and pay any charges for required publication of notices and documents, immediately upon request therefor.
(Revised May 16, 1988)

40-12-2 AUTHORIZED VARIANCES. Variances from the regulations of this Code may be recommended to the Village Board only in accordance with the standards set forth in this Section and only in the following instances and no others:

- (A) To permit a yard required by the applicable regulations;
- (B) To permit the use of a lot not of record on the effective date of this Code for a use otherwise prohibited solely because of the insufficient area of the lot, but in no event shall the area of the lot be less than **eighty percent (80%)** of the required lot area.
- (C) Notwithstanding anything to the contrary or foregoing in this Code, the President and Board of Trustees of the Village of Dawson, Illinois, may grant such variations from the regulations of the Zoning Code as are duly determined by them and made in accordance with a plan or policy adopted by the Board of Trustees of the Village of Dawson, Illinois, to develop, rehabilitate, improve or add to the property located within the Village of Dawson, Illinois.