

ZONING, PLANNING AND APPEALS COMMISSION
PROPOSED ZONING ORDINANCE AMENDMENTS
17-TA-1

CHANGES FROM THE CURRENT ZONING ORDINANCE NOTED WITH
ADDITIONS UNDERLINED IN BLACK AND DELETIONS STRUCK THROUGH IN BLACK

1. Residential Lot Coverage

ACCESSORY BUILDINGS or ACCESSORY STRUCTURE. *A subordinate detached building or structure located on the same lot as a principal building, which is not a principal building, the use of which subordinate building or structure is incidental to that of the principal building or to the principal use of the lot, such as, by way of illustration, a barn, garage, guest house, horse stable, large stable, arena, shed, caretaker's quarters or servant's quarters.*

BUILDING. *Except for doors and windows, a structure, with similar uses, entirely enclosed with at least three (3) substantial walls and a roof securely affixed to the land and entirely separated on all sides from any other structure by space and which is designed or intended for the shelter, enclosure or protection of human beings or animals or other chattels; and includes a factory manufactured building, mobile home or a prefabricated building as well as recreational vehicles located outdoors on a site for more than one hundred eighty (180) days.*

PRINCIPAL STRUCTURE. *The main or primary structure on a parcel of land, as distinguished from an accessory structure or building such as, by way of illustration, a barn, garage, guest house, horse stable, large stable, arena, shed, caretaker's quarters or servant's quarters.*

STRUCTURE. *Unless otherwise specified in this Chapter, anything manmade and artificially built up or composed of parts joined together in some definite manner and so constructed or erected, or any production or piece of work, the use of which requires permanent or temporary location in or upon the land or requires attachment to something having a permanent location above, on, or below the ground, with similar uses, including for example but not limited to: An advertising sign, an air conditioning compressor unit, a gas or liquid storage tank, a backstop for a tennis court, a billboard, a building, building foundation (including a foundation constructed for the installation of a manufactured home), signs, fences, gospel and circus tents, platforms, radio and television antennae (including supporting towers), a manufactured home, a prefabricated building, a manmade lake having a depth of more than twenty-four (24) inches, a manmade pond having a depth of more than twenty-four (24) inches, a reviewing stand, stadium, a swimming pool, etc.*

To amend **Section 15.105(c)**, which will be moved to other parts of the Zoning Ordinance, as set forth in # 11 below, as follows:

Percentage of Required Yard Occupied. No accessory building or buildings shall occupy a total of more than ~~five (5)~~ three (3) percent of the area of such lot.

To add new Sections 15.1203(M) and 15.1204(H), requiring a special use permit in the R-1 District for each accessory building after three (3) have been placed on a lot:

Section 15.1203(M): An accessory building, if three (3) or more accessory buildings are on the lot.

Section 15.1204(H): Limit on Number of Accessory Buildings. No more than three (3) accessory buildings are allowed on a lot without a special use permit first being granted.

To add new Sections 15.1303(G) and 15.1304(I), requiring a special use permit in the R-2 District for each accessory building after three (3) have been placed on a lot:

Section 15.1303(G): An accessory building, if three (3) or more accessory buildings are on the lot.

Section 15.1304(I): Limit on Number of Accessory Buildings. No more than three (3) accessory buildings are allowed on a lot without a special use permit first being granted.

2. Minimum House Size

For the R-1 District, a new **Section 15.1204(I):** Floor Area. Dwellings shall have a total livable floor area of not less than two thousand (2,000) square feet in addition to a garage with a total ground floor area of not less than four hundred (400) square feet.

For the R-2 District, replace **Section 15.1304(G)** with the following: Floor Area. Dwellings shall have a total livable floor area of not less than two thousand (2,000) square feet in addition to a garage with a total ground floor area of not less than four hundred (400) square feet. ~~One (1) story dwellings shall have a total habitable ground floor area of not less than twenty five hundred (2,500) square feet. Dwellings having more than one (1) story shall have not less than two thousand (2,000) square feet of habitable ground floor area nor less than three thousand (3,000) square feet of total habitable floor area.~~

3. Short Term Residential Rental Regulations

Section 15.201: SHORT TERM RENTAL. A single room, dwelling, or portion thereof, located within a residential structure or mobile home offered for rent or rented for a period of less than ninety (90) consecutive days.

Section 15.1202: **Note:** Short term rentals, manufactured homes, prefabricated buildings and wind energy conversion systems, including windmills and/or wind turbines, are not permitted uses and are not accessory uses in the R-1, Single-Family Residence District.

Section 15.1203: **Note:** Short term rentals, manufactured homes, prefabricated buildings and wind energy conversion systems, including windmills and/or wind turbines,

are not permitted uses and are not accessory uses in the R-2, Single-Family Residential District.

4. Amortization Of Non-Conforming Uses

Section 15.302: "Whenever any of the following conditions occurs, a nonconforming use shall be eliminated ~~sooner than required in Section 15.304.~~"

Section 15.309: "Whenever a lawfully existing building or other structure otherwise conforms to the use regulations herein but is structurally nonconforming only in the particular manner hereinafter specified in this Section 15.309, a nonconforming building or structure ~~shall be exempt from the requirements of Section 15.304 but~~ shall not be exempt from the remaining requirements of this Article, including those pertaining to nonconforming uses."

Section 15.306: "This Section 15.306 only applies to nonconforming non-residential structures, nonconforming non-residential buildings and structures containing a nonconforming use. This Section 15.306 does not apply to structures, buildings or uses approved in, and operating under, a valid special use permit. In the event a nonconforming building or other structure and/or a building or other structure containing a nonconforming use is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value based upon prevailing costs at the time of such damage or destruction as determined by the Zoning Administrator, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the zoning district in which it is located. In the event the damage or destruction is less than fifty (50) percent of its replacement value based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building which existed at the time of such partial destruction may be continued, provided however that the remaining sections of this Article shall continue to be effective to regulate the length of time during which a nonconforming building or structure and/or nonconforming use may continue as if the damage or destruction had not occurred. In either event, restoration or repair of the building or other structure must be started within a period of ~~six (6) months~~ one (1) year from the date of damage or destruction and diligently prosecuted to completion within a maximum of one (1) year from the time restoration or repair is initiated. One (1) extension of the time requirements stated in this Section may be granted by the President and Board of Trustees for good cause shown, as determined in the sole discretion of the President and Board of Trustees, by the property owner, provided a written request is filed with the Village at least four (4) weeks prior to the respective deadline. Failure to initiate or conclude restoration within these limits shall constitute voluntary discontinuance of use as set forth in Section 15.302. In no case shall such restoration nor the time spent during construction and repairs operate to extend the time for elimination of any nonconformity."

5. Zoning Application Fees

Section 15.802(C)(2) (variation filing fee): Payment of filing fees of ~~_____~~ a. Two Hundred Fifty dollars (\$250) for regular hearings; and b. Three Hundred Fifty Dollars (\$350) for special hearings.

Section 15.902(C)(2) (appeal of decision of Zoning Administrator filing fee): Payment of filing fees of ~~_____~~ a. ~~One Two Hundred Fifty dollars (\$250150)~~ for regular hearings; and b. ~~Two Hundred Dollars (\$200)~~ for special hearings.

Section 15.1003(C)(2) (text amendment or map amendment filing fee): Payment of filing fees of ~~_____~~ a. ~~Two Thousand Two Hundred Fifty dollars (\$2502,000)~~ for regular hearings; and b. ~~Two Thousand Five Hundred dollars (\$25000) (\$200)~~ for special hearings.

Section 15.1102(C)(2) (special use filing fee): Payment of filing fees of ~~_____~~ a. ~~Two Hundred Fifty dollars (\$250)~~ for regular hearings; and b. ~~Three Hundred Fifty Dollars (\$350)~~ for special hearings.

Section 2.903 REIMBURSEMENT: It is further the purpose of this Article IX to require the deposit of necessary funds by applicants prior to professional fees being incurred by the Village in those instances in which the Village requires that the applicant reimburse the Village for any professional fees incurred by the Village in connection with the applicant's request or matter. An applicant required to reimburse the Village shall receive a credit towards the applicant's reimbursement obligation for amounts paid to the Village for any related application fee or permit fee. The Village's costs of renting any audio visual equipment used at a public meeting and/or hearing in connection with the Village's review as set forth in Section 9.02 above, and along with the Village's costs of or room rental fees for special meetings of the Zoning, Planning and Appeals Commission and/or Village President and Board of Trustees in connection with the Village's review as set forth in Section 9.02 above, shall be paid by the person(s) requesting the audio visual equipment.

6. Time Limit For Appeal From Zoning Administrator's Decision

Section 15.901: An appeal from any decision or ruling of the Zoning Administrator made in interpreting, applying and/or enforcing the regulations contained in this Chapter may be taken to the Zoning, Planning and Appeals Commission by any person, firm, or corporation aggrieved by said decision or ruling or by any either officer, department, board or commission of the Village of Mettawa within forty five (45) days of the action of the Zoning Administrator complained of, as set forth in 65 ILCS 5/11-13-12, or such other time as set forth therein, as amended from time to time.

Section 15.903(B): Not more than thirty (30) days nor less than fifteen (15) days before the hearing on which the application for ~~appeal variation~~ is to be considered, the Village Clerk shall cause notice thereof to be published in one (1) or more newspapers published in the Village of Mettawa, or, if no newspaper is published within the Village of Mettawa, then in one (1) or more newspapers with a general circulation within the Village of Mettawa; and within the same period of time, the petitioner shall send such notice by United States certified or registered mail, return receipt requested, to the owners of all real property within one thousand (1,000) feet of the subject property, and shall furnish the Village Clerk proof of receipt of such mailing prior to the date of the hearing.

Section 15.402(B): The Zoning Administrator and/or his duly appointed and/or authorized representatives shall have the responsibilities of administering and enforcing this Chapter and, in addition, shall leave the following specific duties:

[...]

11. To coordinate with the Office of the Village Clerk to cause applications and notices for public hearings before the Zoning, Planning and Appeals Commission to, as a courtesy notice not required by State law, be (i) posted on the Village's website, if the Village maintains a website, and (ii) emailed to recipients on an email list maintained by the Village, if the Village maintains an email list, both at least fifteen (15) days before the public hearing. The unavailability of such applications or notices on the Village's website, or the failure to send or receive the emails, as set forth herein, shall not invalidate, impair, or otherwise affect any zoning approval subsequently granted following a public hearing, as the website and email postings set forth herein are for the convenience of the public and not a jurisdictional prerequisite to the Zoning, Planning and Appeals Commission holding a public hearing and making a recommendation on an application, or for the President and Board of Trustees making a decision on an application.

7. Variations For Places Of Public Assembly With Existing Special Use Permits

None, this item was tabled.

8. Horse and Large Stable Requirements

Section 15.201 (definition of agricultural uses): AGRICULTURAL USES. All the processes of planting, growing, cultivating, harvesting of crops in the open for the production of food, fiber, nursery stock and forest products; flower gardens, apiaries, aviaries, nurseries, orchards, forestry, non-commercial greenhouses, silviculture; horse ~~and horse ranching~~ activities; maintaining agricultural drain tiles, irrigation and drainage ditches; and maintaining farm roads and other access areas for farm vehicles and equipment - excluding the raising and feeding of livestock and poultry, dairy farming, agricultural buildings and structures other than stables and loafing sheds, truck gardens and retail and/or roadside sales.

Section 15.201 (definition of large stable): LARGE STABLE. Authorized by special use permit, a building, which may include an indoor riding arena, if approved separately in a special use permit, for the stabling of a number of horses in excess of the number permitted in this Chapter per 40,000 square feet of land and, in the case of lots in excess of 200,000 square feet in area, a building providing stabling for a number of horses in excess of five (5).

Section 15.201: SEMIPRIVATE STABLE. ~~A stable at which the operator provides for a fee, facilities to owners of horses for boarding care or training of ten (10) or more horses, including instruction in horsemanship. A bona fide sale of a horse shall not be considered to be supplying or renting of a horse by the operator to a member of the public.~~

Section 15.1303(D)(4): Special Uses – Horses. In considering an application for ~~a special use for a semi-private stable horses~~, the Zoning, Planning and Appeals Commission and President and Board of Trustees shall give careful consideration to the character, background and past experience of the Petitioner in question and may condition the granting of any special use upon the continued supervision of any particular operator and in its discretion may also limit any such special use to a particular period of time.

Sections 15.1202(C)(3)(d)(iii) and 15.1303(D)(1): Stalls shall be cleaned daily. Manure and used bedding shall be removed from stables daily and manure and bedding shall be removed from the premises on no less than a weekly basis or spread on the land in a sanitary and healthful manner. Each week, between such removal, manure may only be stored in appropriate containers, which shall be screened from view from adjacent lots and rights-of-way, provided the ~~stockpile is~~ containers are located at least two hundred fifty (250) feet from any dwelling not on the lot on which the stable is located and a minimum of one hundred (100) feet from any lot line. A pile containing putrescible refuse and/or manure is prohibited and shall not be construed as a compost and shall not be permitted.

[The ZPA recommends and urges the Village Board to decide how to allow composting of manure, to study the issue, and to regulate it accordingly.]

Section 15.1202(C)(3): Horses - except as set forth in Section 15.309A, in a number not to exceed the resultant quotient obtained by dividing the total square foot area of the single family residential lot upon which the horses are to be maintained by the number forty thousand (40,000), provided that in the R-1 Single-Family Residence District no horse shall be permitted upon any lot which does not contain at least eighty thousand (80,000) contiguous square feet of land, and provided that no more than five (5) horses shall be permitted upon any lot. Horses are only permitted on a lot on which an occupant of the lot is a resident. Public boarding shall not be permitted. The requirements of this Section 15.1202(C)(3) shall not be varied. Notwithstanding anything in this Code to the contrary, the terms and provisions of this Section 15.1202(C)(3) shall not apply to limit or restrict in any way any legal nonconforming use of a large stable, large stable related structures, and/or related equine operations established prior to January 1, 2017.

a. When a horse is permitted to be maintained on a lot, one (1) stable shall be allowable as an accessory building and shall contain a stall for each horse maintained on such lot but shall not exceed stalls for five (5) horses unless a special use permit therefor has been obtained pursuant to the terms of this Code. In addition, a loafing shed shall be allowable as an accessory structure.

Section 15.1203(H): Delete the special use provisions for large stables and add language elsewhere to clarify that large stables may not be added to the Village and that existing large stables cannot be expanded, except in limited circumstances set forth in the new Section 15.1209(B)(3) below.

Section 15.1209: Create a new Section 15.1209, entitled "Large Stables" to read as follows:

A. No large stable may be established.

B. Any legal nonconforming or conforming existing large stable and existing large stable related structures established prior to [date of ordinance], 2017, shall not be altered or expanded in any manner, except in compliance with Article III of this Chapter and the following, or as provided in Section 15.1209(C) for improvements allowed in a special use permit allowed pursuant to a legal nonconforming use established prior to January 1, 2017:

1. The alteration is necessary and part of the care or maintenance of the existing large stable and existing large stable related structures; and

2. The alteration or expansion does not intensify the existing large stable use of the land and/or existing large stable-related structures.

C. Improvements allowed in a special use permit approved prior to [date of ordinance] , 2017 may be constructed and used, and a legal nonconforming or conforming large stable established prior to [date of ordinance] , 2017 may continue to be used, but is subject to the following requirements, in addition to all other requirements of this Code, the Village Code and the special use permit, and to the extent of any conflict between the terms of this Code, the Village Code, and a special use permit for a large stable or the legal nonconforming use of a large stable established prior to January 1, 2017, the special use permit and/or legal nonconforming status shall control:

1. That the owner of the premises resides upon the premises and that the stabling meets the following requirements:

2. Facilities for horses:

a. An inside stall shall be provided for each horse;

b. Box stalls shall be available for all horses so stabled, which shall be of minimum size inside of at least eleven and one-half feet by eleven and one-half feet (11-1/2' x 11-1/2');

c. All stalls shall have feeders and water available; and

d. At least one (1) working and unexpired fire extinguisher of a type approved in the Village of Mettawa Fire Prevention Code for each five (5) horses housed, which shall be located in the structures in which horses are housed. Inspections of the fire extinguishers shall be made in accordance with the Village of Mettawa Fire Prevention Code.

3. No more than one (1) horse stall per 40,000 square feet of contiguous land shall be permitted, which for the purpose of calculation of the number of stalls may include contiguous land located outside of the corporate limits of the Village. In the event ownership of any portion but not all of the real estate for which a special use for the operation of a large stable has been granted is sold, assigned, leased, or otherwise alienated, such special use as to all of the real estate shall be deemed null and void and of no further force or effect. In such case all stabling operations must conform to the standards set forth for permitted uses as set forth in Section 15.1202 above.

4. Conduct of stable operations:

a. Livery stables shall not be permitted.

b. Horse shows shall not be permitted, which includes exhibitions that may be open to the public of horses, competition between horses

and riders in riding, driving and jumping, at which an entry fee is charged for horses, hay, bedding, stalls or trailers.

c. Horse clinics shall not be permitted, which includes events at which instruction or coaching in a particular equestrian discipline is given by a professional trainer who is not the large stable's regular and routine trainer, which professional trainer is paid to give instruction to outside horses and/or riders who may trailer into the large stable for instruction, and at which auditors may be allowed to watch the clinic for a fee.

d. Horse demonstrations and exhibitions shall not be permitted, which includes events open to the public to promote a single professional rider and/or trainer or to showcase skills of a breed of horse or exhibit of a discipline of riding, such as, but not limited to, dressage, jumping or breed of horse challenges.

e. Instruction of riders in horsemanship shall be by private lessons only, provided, however, that where the nature of instruction requires that other horses and riders be present at the same time, group lessons of up to four (4) riders and horses are permitted.

f. Stalls shall be cleaned daily. Manure and used bedding shall be removed from stables daily and manure and bedding shall be removed from the premises on no less than a weekly basis. Each week, between such removal, manure may only be stored in appropriate containers, which shall be screened from view from adjacent lots and rights-of-way, provided the containers are located at least two hundred fifty (250) feet from any dwelling not on the lot on which the stable is located and a minimum of one hundred (100) feet from any lot line. A pile containing putrescible refuse and/or manure is prohibited and shall not be construed as a compost and shall not be permitted.

g. Grain and other feeds shall be stored in such a manner as to minimize the presence of mice, rats, and other vermin.

D. The requirements of this Section 15.1209 shall not be varied.

The ZPA recommends and urges the Village Board to decide how to allow composting of manure, to study the issue, and to regulate it accordingly.

The ZPA also recommends that the Village Board consider a licensing requirement for operators of large stables with operating standards, routine inspections, and so on.

9. Definition Of Commercial Use And Regulations On Commercial Use In Residential Districts

Section 15.201 (definition of commercial use): COMMERCIAL USE. The collection of money or other consideration in exchange for goods or services.

Section 15.1202: Permitted Uses. Note: Commercial uses (except as otherwise permitted), manufactured homes, prefabricated buildings and wind energy conversion

systems, including windmills and/or wind turbines, are not permitted uses and are not accessory uses in the R-1, Single-Family Residence District.

Section 15.1203: Permitted Uses. Note: Commercial uses (except as otherwise permitted), manufactured homes, prefabricated buildings and wind energy conversion systems, including windmills and/or wind turbines, are not permitted uses and are not accessory uses in the R-2, Single-Family Residential District.

10. Increase In Maximum Accessory Structure Size Without A Special Use Permit

None, this item was tabled.

11. Move Requirements From Sections 15.105 and 15.106 Into The Zoning Districts Chapters

To be included in an ordinance making the Zoning Ordinance changes if the Village Board concurs with the ZPA's recommendation.

12. Add A "Use It Or Lose It" Requirement For Special Uses

Add a new **Section 15.1109** entitled "Expiration of Approvals," as follows:

For special use permits approved on and after [date of ordinance] , 2017, unless otherwise provided for in the approval of a special use permit:

A. An approval of a special use permit by the President and Board of Trustees shall be null and void if the recipient does not file an application for a building permit for the proposed project within twelve (12) months after the date of the approval of the special use permit.

B. An approval of a special use permit by the President and Board of Trustees shall be null and void if construction has not commenced within fifteen (15) months, and is not completed within twenty four (24) months after the date of the approval of the special use permit.

C. A special use permit shall be null and void if the use for which the approval was granted ceases for a period of one (1) year.

D. One (1) extension of the time requirements stated in subsections A., B. and C. of this Section may be granted by the President and Board of Trustees for good cause shown, as determined in the sole discretion of the President and Board of Trustees, by the applicant or special use permit holder, provided a written request is filed with the Village at least four (4) weeks prior to the respective deadline.

13. Height Of Structures In The R-1 And R-2 Zoning Districts

Section 15.1207 (R-1 District):

A. In the R-1, Single-Family Residential District:

~~1. The ceiling level height of a building shall not exceed thirty five (35) feet.~~

~~2.1. The maximum height of a principal building or principal structure shall not exceed forty-five (40 45) feet from grade or two (2) stories, whichever is the lesser.~~

2. The maximum height of an accessory building or accessory structure shall not exceed twenty five (25) feet from grade.

3. No habitable rooms shall be permitted on any floor below the basement.

B. FCC licensed radio and/or television towers and/or other transmitting and receiving equipment, including personal wireless telecommunications facilities, provided that no antenna height shall exceed 60 feet above grade; chimneys; flag poles; and church steeples shall be excluded from the regulations contained in this Section 15.1207.

Section 15.1307 (R-2 District):

A. In the R-2, Single-Family Residential District:

~~1. The ceiling level height of a building shall not exceed thirty five (35) feet.~~

~~2.1. The maximum height of a principal building or principal structure shall not exceed forty-five (40 45) feet from grade or two (2) stories, whichever is the lesser.~~

2. The maximum height of an accessory building or accessory structure shall not exceed twenty five (25) feet from grade.

3. No habitable rooms shall be permitted on any floor below the basement.

B. FCC licensed radio and/or television towers and/or other transmitting and receiving equipment, including personal wireless telecommunications facilities, provided that no antenna height shall exceed 60 feet above grade; chimneys; flag poles; and church steeples shall be excluded from the regulations contained in this Section 15.4207-1307.