



*Prepared by Camiros for the
Village of Mettawa, Illinois*



Mettawa Zoning Ordinance

Technical Review Report

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*** All illustrations in this document are examples only, and do not represent regulations that would be developed for Mettawa.**

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INTRODUCTION



This Technical Review Report presents the findings of a technical review of the Village of Mettawa Zoning Ordinance performed by Camiros. Good zoning regulations combine rational substantive controls with fair procedures, which, when reasonably applied, assure a pattern of development that protects the status quo where warranted and facilitates change where desired. The regulations must be well organized, easy to use, and have standards and procedures that regulate clearly and effectively. It must allow for predictable results and the fulfillment of Village objectives.

This Report focuses on regulatory issues and potential revisions identified during the technical review. It highlights key issues and revisions that would be substantive changes to current regulations, and offers conceptual approaches to resolving specific issues.

Recommendation

Upon review of the proposed amendments and the current Ordinance, it is recommended that the Village pursue a rewrite of the Ordinance. As Mettawa’s character is established and a majority of the Village is built out, albeit in a rural fashion, the intent of a rewrite is to clearly define this character, and the associated development regulations, to protect that character moving into the future. This would allow for predictability and consistency in application of the Ordinance, and reduce the need for interpretation. Modernizing the Ordinance through better organization, utilization of illustrations and matrices, and other approaches outlined in this Report, would further help the Village align zoning with other Village ordinances to prevent unintentional conflicts.

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GENERAL ORGANIZATION



The Ordinance should follow a logical system of compartmentalization.

The Ordinance should follow a consistent, structured pattern from beginning to end. A key way to improve the structure of the Zoning Ordinance and, in turn, its ease of use, would be to employ a system of compartmentalization. This is a technique where items of information are grouped together by regulatory category and purpose. In order to place regulations into logical sections, the following is proposed as a potential Ordinance structure:

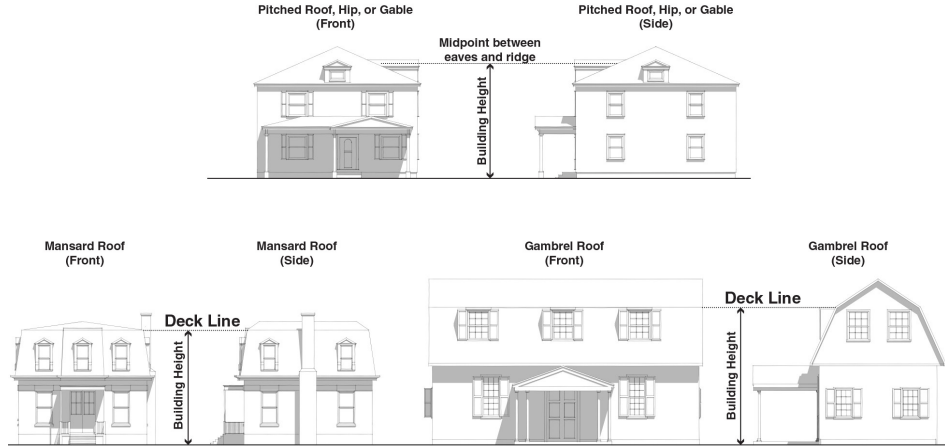
- **Article 1:** Title, Purpose & Intent
- **Article 2:** General Definitions & Measurement Methodologies
- **Article 3:** Zoning Districts and Zoning Map
- **Article 4:** Residential Districts
- **Article 5:** Commercial Districts
- **Article 6:** Special Purpose Districts (The current Open Space District)
- **Article 7:** Uses
- **Article 8:** On-Site Development Standards (Primarily accessory structures)
- **Article 9:** Off-Street Parking and Loading
- **Article 10:** Landscape (Parking lot landscape and buffers/transitional yards)
- **Article 11:** Zoning Approvals
- **Article 12:** Planned Unit Developments
- **Article 13:** Nonconformities
- **Article 14:** Enforcement (Reference to state permissions for enforcement)

The Ordinance would benefit from greater use of illustrations and matrices.

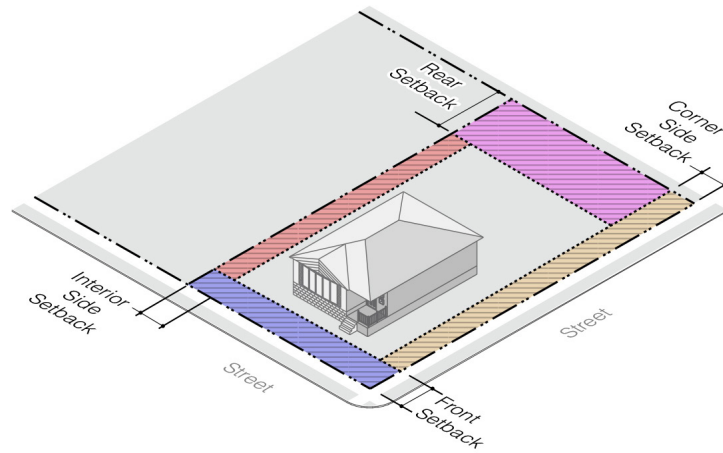
The Ordinance should illustrate a variety of definitions and regulations, which will more effectively communicate information to users. Numerous regulations would benefit from illustration including, but not limited to:

- Lot types
- Landscape, fences, and similar requirements
- Measurement rules, such as building height, yards, etc.
- Parking lot design

Building Height Example*



Setbacks Example*



* For illustrative purposes only

The Ordinance would also benefit from a greater use of matrices. In particular the following would become easier to understand in a table format:

- A global use matrix that summarizes permitted and special uses for each district.
- Residential and commercial district standards.
- Parking requirements.

The Ordinance should clearly explain all rules of measurement and current definitions should be evaluated.

The rules of measurement for building height and grade, yards, lot width, etc. should be brought together in one section so that their application is clear and consistent. The majority of the measurement standards should be illustrated to make them understandable to the user. This would also make sure important standards, like vision clearance for corner lots, have more prominence in the Ordinance, rather than hidden within accessory structure standards. It would also clarify certain standards, like impervious surface and how that should be calculated (i.e., what is counted as impervious and what is not). In addition, clarification should be made on what architectural features are allowed to exceed the maximum height. The current list (towers, chimneys, flag poles, church steeples) is limited. The Village has large structures such as steeples on stables and it should be considered whether to exempt these as well, especially since the accessory building height has been lowered.

Ordinance definitions should be evaluated and updated, including the addition of definitions that may be missing. For example, the prohibited use list in the residential states that “prefabricated buildings” are prohibited. This needs to be clarified as to what this term means. Does this also mean that prefabricated sheds that you may buy at a home improvement store are prohibited? Modular-built housing, which is a popular method of construction, could also be interpreted as prohibited, even though these homes are built to building code and look no different from a traditional stick-built home.

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DISTRICTS



Residential Districts

Village policy as articulated in the Comprehensive Plan seeks to maintain a low density residential character and the current regulations in the R-1 and R-2 Districts do further that policy. However, some potential concerns and revisions to consider are as follows:

- **Lot Area.** The current Ordinance states lot sizes in acres but technically uses a “builder’s acre” in application. (A “builder’s acre” measures one acre as 40,000 square feet rather than 43,560 square feet). The Ordinance should clearly state that a “builder’s acre” is used and include a definition of such.
- **Easements.** Scenic easements should have their own section within the residential district standards so that they are more easily identified as applicable. A map could supplement these regulations showing where these apply.
- **Minimum Habitable Area.** While a recent amendment created a requirement for the R-1 District and updated the R-2 District, the Village should again consider eliminating the minimum dwelling unit size. One concern is that this may create nonconformities. Further, it is unclear why the Village would want to prevent property owners who would like to construct a smaller home from doing so. Among the benefits of allowing smaller homes is that it would allow for more green space on the lot.
- **Lot-In-Depth.** The lot-in-depth provisions are confusing. First, such lots are typically called a flag lot, which would be a term more familiar to ordinance users. The standard for yards appears to require that the yards for the “in-depth” portion of the lot match the minimum width required of the yard that directly abuts them. It may be simpler to apply the applicable yards as you would to a standard lot.

Commercial Districts

The commercial district controls appear to working well. However, the Village may want to consider a few revisions.

- **Transitional Yard.** The transitional yards should include required plantings and screening structures to ensure proper buffering from any adjacent residential.
- **Maximum Lot Coverage.** In the O/R District, maximum lot coverage should be divided into maximum impervious surface and maximum lot coverage to accurately identified the controls. In the H District, the maximum lot coverage appears to control maximum impervious surface and should be identified as such.
- **FAR.** Floor area ratio works best for structures of significant height. The standards for required yards, maximum lot coverage, and maximum building height control the overall bulk of the structure. FAR may add an additional control that is not needed and may unintentionally create nonconformities. In the H District, to ensure proper control over bulk if FAR is eliminated, a maximum lot coverage could be added.

- **Performance Standards.** The O/R District has extensive performance standards that are complex in application for noise, smoke, and particulate matter. The Village may want to simplify these. They should also be applicable to all non-residential districts, including the H District

Open Space District

Currently all dimensional standards are established by the Board during site plan approval. The Village may want to consider creating base standards for the district. For example, the following are standards that are common to an open space district:

Bulk	
Minimum Lot Area	None
Minimum Lot Width	None
Maximum Building Height (Principal Structures Only)	40'

Minimum Setbacks (Apply to Principal Structures Only)	
Front Setback	20'
Interior Side Setback	30'
Corner Side Setback	20'
Rear Setback	30'

New Districts

The R-2 District area located between Bradley Road and I-94 (Tollway) has been identified by some as an area that could be developed with smaller single-family development, such as townhouses, with some limited commercial allowed, creating a very low intensity mixed-use district. The Village is low density and rural in character so this limited area is the only location that would be appropriate for such type of development.

Numerous precautions must be built into the creation of such district, such as access requirements related to adjacent right-of-way capacity, design and siting standards, and use permissions, that would effectively limit its application to this area only. It should be noted that the district can be created, but not mapped, thereby held in reserve until an appropriate time to rezone.

USES



A modern generic use approach should be adopted to address uses within the districts.

A revision of how uses within the zoning districts are controlled, based upon the concept of “generic uses,” would make the use permissions easier to understand and more flexible, particularly for the non-residential districts. A generic use approach to the listing of uses is established by combining specific uses into a broader use category. For example, retail sales including department stores, drug store, gift shop, and candy stand could all be addressed by the use “retail goods establishment.”

The use of a generic use approach has two main benefits. First, it eliminates the need for extensive and detailed lists, and the use sections of the Ordinance become shorter and easier to use. Secondly, the generic use approach provides the Village with greater flexibility to review and permit those uses that may be desirable, but not specifically listed, within the broader context of generic use definitions.

With the generic use approach, use definitions are critical. Each use must be defined and may specifically exclude uses that are not part of the generic use definition. Another important element of the generic use approach is recognizing that certain specific uses are unique in their impacts and community concerns and need to be regulated separately, rather than as part of a generic use. A common example is an adult use; it cannot be regulated as part of generic retail or entertainment uses. Once singled out, any use listed separately cannot be considered part of any other generic use.

Permitted and special uses should be tailored specifically to the purpose of the district.

The uses allowed in each district should be evaluated and updated. Uses must correspond to the purpose, form, and function of each district. A full rewrite would allow for a full evaluation and resorting of uses allowed in each district.

It is best to organize uses into a global use matrix. This is a table that lists all permitted and special uses and then assigns permissions to each district. Where the table does not include a “P” (permitted) or “S” (special) within the column assigned to the district, then the use is prohibited in that district. This type of organization allows the Village to define what uses are desired within each district and limits the need to create definitions of uses that should be prohibited, such as the proposed revision to create a “commercial use” definition for prohibition in the residential districts.

Finally, the provision that allows for a use that is not listed to be allowed by special use if found to be compatible should be eliminated. This creates a loophole for unwanted uses in the Village. By adopting the generic use approach and tailoring the uses to each district, uses can better be managed and interpretation issues will be minimized and therefore this loophole would not be needed.

PRINCIPAL USE	ZONING DISTRICT														USE STANDARD						
	R-1	R-2	R-3	R-4	R-MF	R-MHP	C-T	C-1	C-2	C-3	C-D	C-V	I-1	I-2		I-MU	I-OP	S-AG	S-OS	S-NA	S-IC
Adult Use													S	S							Sec. 8.3.A
Agriculture																		P			
Amusement Facility - Indoor								P	P	P	P					P					
Amusement Facility - Outdoor										S					S						
Animal Care Facility - Large Animal																		P			
Animal Care Facility - Small Animal							S	S	P	P	S	S				P		P			Sec. 8.3.B
Animal Breeder																		P			Sec. 8.3.B
Art Gallery							P	P	P	P	P	P				P					
Arts and Fitness Studio							P	P	P	P	P	P				P					
Bar								S	P	P	P	P				P					
Bed and Breakfast	P	P																P			
Body Modification Establishment								S	S	P	S					P					
Broadcasting Facility TV/Radio							P	P	P	P	P	P	P	P	P	P				P	
Campground																		S	P		
Car Wash									S	S						S					Sec. 8.3.E
Cemetery																			P		
Children's Home						P				P	P					S				P	Sec. 8.3.F
Community Center	P	P	P	P	P		P	P	P	P	P	P						P	P		P
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P				P	P	P	P		Sec. 8.3.G
Conservation Area																		P	P		
Country Club																			P		
Cultural Facility							P	P	P	P	P	P				P					
Day Care Center						P	P	P	P	P	P	P				P	P				Sec. 8.3.H
Day Care Home	P	P	P	P	P													P			
Drive-Through Facility								S	P	P						P					Sec. 8.3.I
Drug/Alcohol Treatment Facility, Residential									S	S						S				S	Sec. 8.3.J
Drug Treatment Clinic									S	S						S				S	Sec. 8.3.J

*** This use matrix is for example purposes only. It is an example from another community.**

Certain uses require use standards to regulate impacts.

Additional use standards may be needed for select uses. Certain uses now have use standards, such as wireless telecommunications and public assemblies. Standards applied to special use approvals or within planned unit developments often serve as the basis for new use standards.

Incorporating new use standards may also reduce reliance on special use approvals. If certain special uses are always approved with the same set of conditions applied, those conditions can be added to the Ordinance and the use allowed as a permitted use so long as it meets all of those standards.

Consider classification of commercial stables as a principal use but clarify that no more are allowed within the Village.

The current policy recommendation of the ZPA is to prohibit new commercial stables, allowing those in place to continue but no longer allowing any new ones. One way to accomplish this prohibition is to create a new principal use of commercial stable and draft regulations that prohibit new commercial stables after the effective date of the Ordinance. (Note: A stable may be a second principal use in some cases, as there may be a residence on-site as well).

From a read of the Ordinance, the distinctions between stables for personal use and for commercial use is not clear. It is proposed to clarify this issue. As the approach below describes, the keeping of horses for

personal use, limited to five, would be considered an accessory use. Commercial stables would become a principal use that is regulated separately. The following outlines an approach:

- The proposal is to identify commercial stables as a pre-existing principal use within the residential districts. It would be allowed to continue as a special use with the regulation that this includes only stables existing as of the date of the special use was issued and/or the date of the Ordinance, and that no new special uses will be issued for commercial stables.
- Some simple language modifications to the proposed standards are needed for clarification. For example, some existing stables have permissions for indoor arenas as part of their special use permit. Therefore, the language in the standards should state in which cases indoor arenas are allowed and how those may be modified.
- As the proposed language states, the Ordinance should clearly summarize all the activities that are prohibited: horse shows, exhibitions, clinics, and livery stables.
- The current proposal allows for riding lessons at all large stables. It is recommended to also allow equine therapy as well (it is understood that this use is not currently operating in the Village).
- The Village should consider allowing these commercial stables to make improvements to existing structures through a site plan review process, where special standards can be created for review of such changes (however this should still prohibit the expansion of the number of horses). This would provide more flexibility for existing stable owners than the current proposal that limits alterations to only those necessary for maintenance. There may be instances, such as the purchase of additional land for grazing, that the Village would want to allow these commercial stables to undertake that would not intensify the use.

The Village may want to consider permissions for domestic animal rescue establishments.

Given Mettawa's rural and animal-friendly culture, the Village may want to consider adding the use of domestic animal rescue. This would be separate from the keeping of dogs and cats, as currently regulated, as these would not be personal domestic pets, would operate on some level as a non-profit/commercial enterprise, and there may be more animals on-site than allowed as domestic pets. Standards would be included to prevent nuisance issues.

There may be a need for flexibility for nonconforming places of public assembly.

Since 2006 expansions of nonconforming public places of assembly are prohibited. However, it appears that uses within the Village like St Basil Serbian Orthodox Church would like to expand their structure. One option is to allow for a one time expansion not to exceed a certain percentage of gross floor area and/or building footprint to accommodate space needs that haven't arisen since 2006. This can be a narrowly drawn permission, that only allows for expansion of existing facilities, such as meeting spaces, and does not allow for the addition of other ancillary uses not currently part of the site.

Accessory uses should be regulated separately from permitted and special uses.

Accessory uses are different in nature from principal uses. It is recommended that they be moved to the proposed Article 8 (On-Site Development Standards). When located within this section, provisions do not need to be repeated for each district and the section can comprehensively address both accessory uses, like home occupations, and accessory structures, such as barns and garages.

Accessory uses and structures that involve the keeping of animals should be moved to the proposed Article 8. While commercial stables are addressed as a principal use, accessory barns/stables, potential permissions for chicken coops and apiaries, and similar uses are accessory to the principal use of the lot. *See discussion on these issues in the accessory use and structure section of this Report.*

ACCESSORY STRUCTURES AND USES



Limitations on the number of accessory structures need to be clarified.

A proposed change to the accessory structure regulations is to limit the number of such structures to three. The concern this amendment addresses is that a lot could be overwhelmed by large accessory structures such as barns, garages, and guest houses. The intent of this regulation is sound, but additional detail is needed. Accessory structures also include such things as small pre-fabricated sheds, gazebos, playsets, and the like. Therefore the restriction needs to focus on the large structures. A revision could state that the limit of three structures only applies to enclosed structures over a certain square footage in area. More than three such large structures would be a special use. In the R-1 District, any accessory structure over 2,000 square feet in area currently requires a special use; it is recommended to maintain this and apply to all districts as this is a significantly large structure.

Finally, if these clarifications are incorporated, it is recommended to leave the maximum coverage of accessory structures at 5% as the new regulations would provide the appropriate level of control. With a predominant lot size of five acres, 5% is an appropriate level of coverage

Evaluate recent revisions to accessory structure height limitation.

Accessory structure height was recently reduced from 45 feet to 30 feet, which is a significant reduction of 15 feet. This creates concerns that existing accessory structures have been made nonconforming. While we understand that many of the larger accessory structures that were within this taller height would also be special uses, that special use permission does not allow them to violate the Ordinance. Therefore they would be made nonconforming if they exceed 30 feet in height, which would make certain improvements require a variance.

The regulations on the keeping of animals within the Village should be evaluated.

Part of Mettawa's heritage is the rural nature and the keeping of horses. The Village has struggled with balancing this heritage while not allowing such activities like the horse stables to become a commercial enterprise or create nuisance issues with the keeping of other animals. The following outlines key issues and potential approaches.

- **Bees/Apiaries.** Both urban and rural communities across the country have interest in the keeping of bees. The current Ordinance is silent on this issue. The Village should consider allowing for such with controls on the number of hive structures and colonies, with regulations for structure siting, fencing, water, and swarm control to ensure proper set up and maintenance.
- **Dogs and Cats.** The current restrictions on the keeping of dogs and cats within the residential districts is repeated in Section 12.104 of the animal control ordinance. This should be located in only one ordinance. Provisions such as these are more appropriate for the animal control ordinance. A cross-reference can be included in the Zoning Ordinance.

→ **Chickens.** The keeping of chickens has become a key issue for the Village. While many want to allow for the keeping chickens, others are concerned about the impacts such as attracting coyotes and other pests, and proper disposal of bird droppings. Permission to keep chickens is a Village policy issue. However if the Village were to allow it, the Ordinance can contain a series of standards that regulate such activity:

- » A minimum lot size to keep chickens, which should be no less than five acres.
- » Required location in a rear yard and a minimum distance from all lot lines, such as 25 feet
- » Regulations on keeping chickens enclosed in coops and runs, with basic standards for construction of such
- » Limitations on the number, usually between six and eight
- » A prohibition on the keeping of roosters
- » A prohibition on slaughtering
- » A prohibition on sales of chickens and eggs
- » Required storage of chicken feed in predator/rodent-proof containers

→ **Keeping of Animals – Excluding Dogs and Cats/Horses/Chickens.** The keeping of equines should be separated from permissions for other animals due to its predominance in the Village. Residents have expressed interest in the keeping of other animals such as goats and llamas. Like chickens, this requires standards that both ensure a safe environment for the animals and mitigates impacts on neighboring properties. If the Village would like to allow the keeping of animals, standards should include:

- » A minimum lot size, which should be no less than five acres.
- » Standards on the maximum number of animals that may be kept. Like horses, this should be established by square footage per animal with the addition of a maximum cap on the number of animals. Sample standards include:
 - Llamas and Alpacas: 40,000 square feet per animal
 - Goat or sheep: 20,000 square feet per animal
 - Pigs: 20,000 square feet per pig
 - Ducks, Fowl: This should be controlled by a cap on the maximum number, similar to chickens
- » As part of the above control, the Village needs to decide if the keeping of some or all of the above animals is cumulative or shared with horses.
- » Animals must be kept for personal use (not commercial endeavor). The maximum cap on the number of animals is important to emphasize this.

If allowed, this will likely require modification of the livestock and agriculture definitions in the Ordinance.

→ **Keeping of Horses – Accessory.** Horses are regulated in two different ways in the Ordinance. The first is a principal use – commercial stables – as discussed above. The second is as an accessory use in the residential districts. This section deals with the keeping of horses as an accessory use.

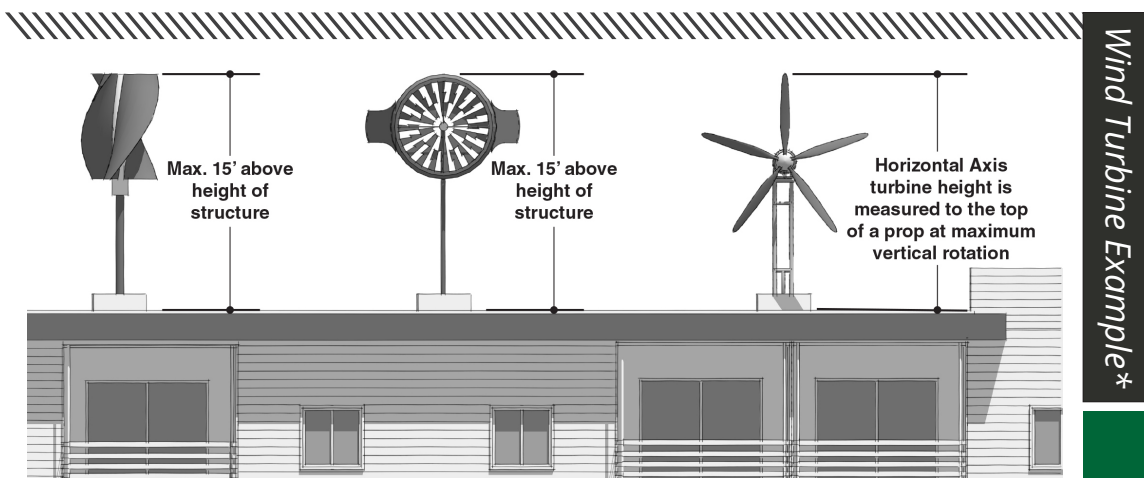
The animal control ordinance regulates the number of horses on a lot in Section 12.104. There must be 40,000 square feet per horse with the additional requirement that the R-1 District have 80,000 contiguous square feet to keep any horses. This provision should be moved to the Zoning Ordinance to prevent future conflict.

The proposed revisions limit the number of horses kept privately to a maximum of five. This is a Village policy issue, and the proposed revisions would prohibit new commercial stables. Key portions of the additional proposed revisions that control the operation of large stables should also be translated as accessory use standards to enforce the policy that only small accessory stables for the personal keeping of horses are permitted. With the statement that variations to certain of these standards are prohibited, no modification would be allowed that would create a loophole that allows commercial stables.

A reorganization of the Ordinance with the distinction between accessory and commercial, as proposed in the Report, and would assist in clarifying and simplifying what accessory standards apply to the personal keeping of horses, as well as clarifying what specific definitions are needed.

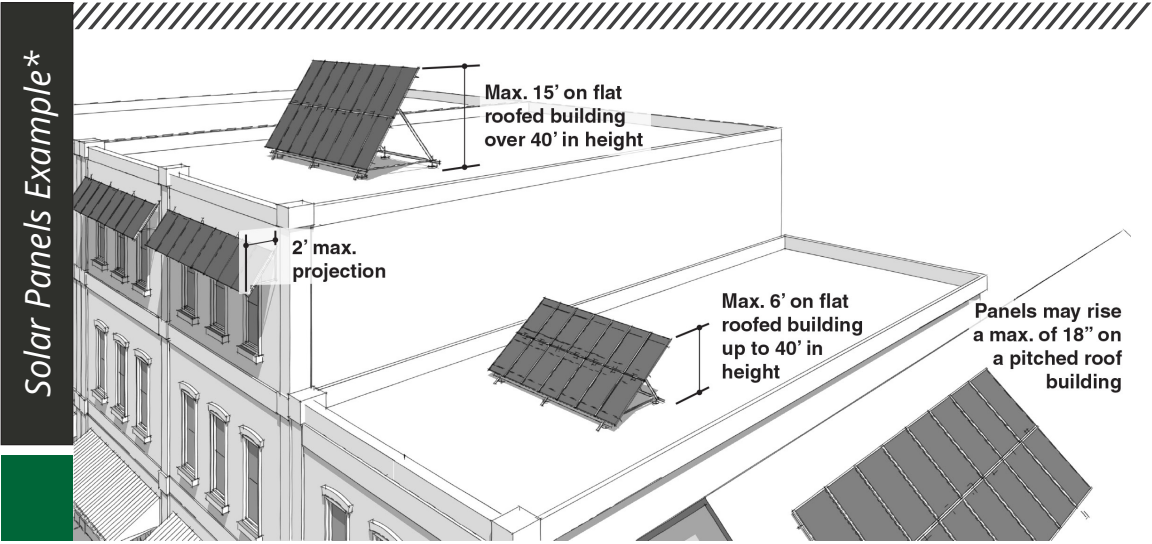
The Village may want to allow for private solar and wind technologies.

The residential districts currently prohibits “wind energy conversion systems, including windmills and/ or wind turbines.” Regulations seem to imply that this prohibition is intended for large-scale wind energy systems. While it is understandable that large-scale wind farms are inappropriate for Mettawa, the Village may want to consider allowances for small-scale turbines mounted on garages and barns for personal use. By default, the current regulations seem to prohibit these as well. Appropriate controls can be placed upon such systems so that they remain small-scale and do not impact adjacent lots.



* *For illustrative purposes only*

Solar energy (solar panels) is not addressed within the Ordinance. Like private wind turbines, the Ordinance can make allowances for such as well with standards that mitigate any impacts. By not specifying if these are allowed, it can be argued that they are prohibited unless approved as part of a planned unit development.



** For Illustrative Purposes only*

PARKING



Parking requirements should reflect local demand and conditions.

Parking requirements should be summarized within a matrix that establishes requirements for off-street parking for each use within the districts. This allows for tailoring of parking requirements to the nature of each use. When the use structure is determined in the Ordinance, the listing of parking requirements by use should sync with those within the districts so that standards can be tailored to the intensity of the use. Finally, all required uses should set parking requirements based on an objective standard, such as gross floor area, rather than on standards that can be manipulated like number of employees.

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LANDSCAPE



Landscape requirements should be included.

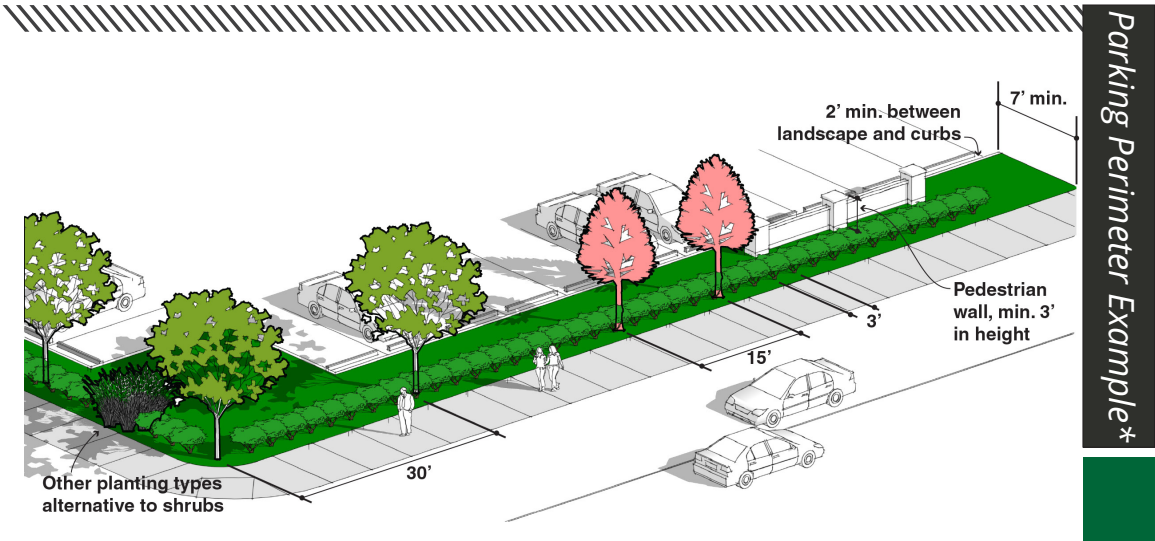
The contribution of landscape to the visual quality of the built environment cannot be overemphasized. Requirements should ensure the proper levels of beautification and screening without creating situations that require variances, and be clear in their application. The landscape requirements can be organized around the following:

- Landscape plan requirements
- Selection and installation requirements
- Interior of parking lots plantings
- Transitional yards

Landscape requirements should be practical, sustainable, and achievable.

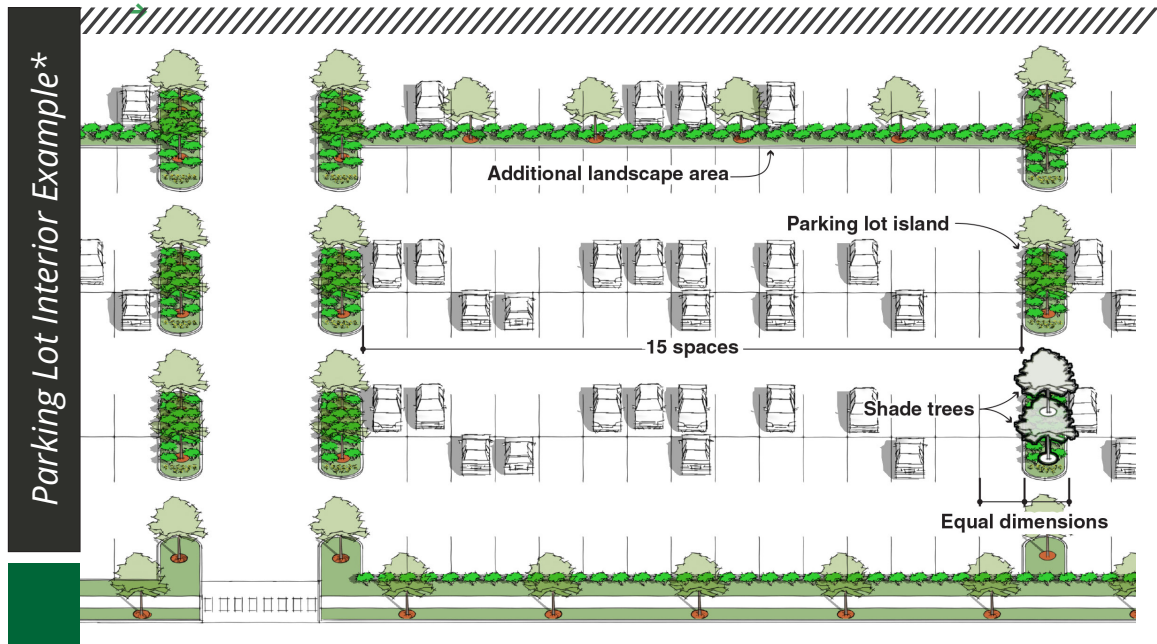
A landscape section should be created that includes regulations that are easy to calculate, and provide a clear path to meeting those requirements. Initial recommendations include:

- There is a transitional yard requirement in the commercial districts. However it does not specify how such yard should be designed. Transition yard requirements should ensure proper screening between incompatible adjacent uses. This would include requirements for tree and shrub plantings as well as required fencing.
- Parking lot perimeter landscaping is currently required for lots of five or more spaces but only requires a wall, fence or hedge. Updating these requirements to include the required amount of shrubs and plantings as well as pedestrian-style fences or walls would ensure adequate screening.



* For illustrative purposes only

- There are no interior parking lot landscape requirements. Larger parking lots should require landscape such as islands every 15 spaces. A standard should be set requiring a standard number of trees and other vegetation within each island. In addition to these requirements, a base percentage of required landscape should be established, generally 10%, to ensure that all lots maintain a minimum amount of landscape area, regardless of the number of spaces provided.



* For illustrative purposes only

- Current uses that require screening, like public assembly uses, should also include specific planting requirements.
- The use of stormwater management techniques such as raingardens and bioswales should be encouraged in landscape areas, including parking lot landscape. Parking lot island and landscape requirements should encourage designs to accommodate stormwater infiltration where appropriate.

Administration



The administrative sections of the Ordinance should be reorganized to make the processes easier for applicants to follow.

→ Ordinance Administrators

The Ordinance should list the powers and duties of all boards and officials involved in administration. By listing all boards and officials for all applications, the process is clarified (i.e., the user can easily reference who recommends and who approves). The following boards and officials will be included:

- » Village Board of Trustees
- » Zoning, Planning, and Appeals Commission
- » Zoning Administrator

→ Application Process

This Article should contain the rules for processing the various zoning applications. These administrative procedures should be consistent with Illinois law and grouped into the following three sections:

- » Application filing
- » Notice (all notice requirements should be organized into one section)
- » Public hearing

→ Approvals

All applications and approvals should be grouped together. We anticipate that the following applications would be included:

- » Amendments - Text and Map
- » Special use (Development standards applied to special uses, such as the wind energy, public assembly, and tower standards, should be moved to the use chapter, as discussed earlier)
- » Variations
- » Site plan review
- » Zoning interpretation
- » Zoning certificates
- » Occupancy certificates
- » Zoning appeals

To the degree possible, the following structure would be used for each application:

- » Purpose
- » Applicability
- » Authority
- » Procedure
- » Approval standards
- » Appeal

The Village may want to remove the limitations on variation applications.

Because the purpose of a variation is to respond to a hardship that runs with the land, many communities do not place limits upon the types of variations that can be applied for. Mettawa's Ordinance currently limits the types of variations that can be granted. This can have a negative effect as unexpected variations not listed can emerge, as variations are based on unique conditions and can be impossible to predict, and this places the Village in the position of having to deny the variation application. It is recommended that these limitations be removed.

The Village should consider allowing for administrative minor modifications to approved special uses.

Rather than requiring an entirely new special use approval for minor modifications to existing special uses, the Ordinance could allow the Zoning Administrator – or the Zoning, Planning, and Appeals Commission – to approve small changes. This would benefit the Village as there are accessory structures as well as commercial stables that are controlled by special use. The following are examples of the parameters of changes that could be allowed.

- The Zoning Administrator may approve the following administrative modifications to an approved special use when it is determined by the Zoning Administrator that such changes are in substantial conformance with the approved special use. (Any changes considered a major modification, as defined here, could be approved as an administrative modification.)
- Changes required during construction when related to final engineering issues such as topography, drainage, underground utilities, or structural safety.
- Modifications that do not increase the building footprint, gross floor area, or height.
- Any additions or enlargements to a structure that are in conformance with the Ordinance where the floor area devoted to a special use is increased by no more than 5%.
- The modification of existing accessory structures or the addition of new accessory structures related to the special use when in conformance with the requirements of the Ordinance.

Planned unit development (PUD) should function as an effective mechanism for leveraging high quality development.

A key aspect of a PUD best practices is that public benefits and amenities are included in return to the flexibilities offered through the process. If the Village would like to update the PUD process to include such requirement, provisions should define the types of amenities or elements desired in exchange for flexibility and bonuses offered through the PUD process. It is important to remember that, because of its inherent flexibility, the PUD process can become a surrogate for the variation process. When a property owner does not want to meet existing district requirements, they often request a PUD where they do not have to demonstrate a hardship or practical difficulty, as would be required under a variance. Therefore, it is key to list which amenities are required to qualify for such exceptions so that petitioners cannot circumvent basic zoning district requirements without providing measured benefits to the Village.

Examples of some of the public amenities and benefits that can be considered in determining whether an exception should be granted include:

- Use of sustainable design and architecture, energy efficient design concepts, new building technologies, and approval of buildings as Leadership in Energy and Environmental Design (LEED) or LEED-equivalent structures.
- Community amenities including plazas, formal gardens, outdoor seating, and public art.
- Preservation of natural areas and site design that is sensitive to environmental features.
- Additional open space and recreational amenities such as recreational open space and playgrounds, including athletic fields, dog parks, and natural water features and conservation areas.
- Additional public infrastructure improvements in addition to the minimum required by the planned unit development.

This is not a definitive list but rather a potential list of public amenities and benefits. In some cases, the actual development may be a public benefit.

A series of administrative, minor, and major changes for approved PUD can be included to allow for more flexibility.

Over the course of time, different levels of changes may be needed to an approved PUD for a variety of reasons. A more flexible change process may be warranted. One alternative is to create three levels of approval – administrative by the Zoning Administrator, minor by the ZPA, and major by the Village Board. One proposal for these three levels of change is provided below:

- Administrative Changes – Zoning Administrator
 - » Alterations required by engineering or other physical site circumstances not foreseen at the time that the final development plan was approved
 - » Changes to building design, architectural features, and interior planning

- » Changes to accessory structures, whether attached or detached
 - » Changes to the landscape plan that do not result in a reduction in the net amount of plant material or violate the landscape requirements of this Ordinance
- Minor Changes – ZPA
- » Any minor extension, alteration, or modification of existing structures that does not violate any PUD approval conditions or applicable district regulations
 - » Changes to the landscape plan that results in a reduction in the net amount of plant material or in the visual impact of the approved landscape plan
 - » Where major changes are defined by a threshold (feet, percentage increase/decrease, etc.), any changes below that threshold are considered a minor change
- Major Changes – Village Board
- » Any change in the number of dwelling units, the gross floor area of the development, or the gross floor area devoted to any particular use
 - » An increase in building height
 - » An increase in building coverage by more than 5%
 - » A change in the orientation of any building by more than 5%
 - » A decrease in open space
 - » A change in excess of five feet in the location of walkways, vehicle circulation ways and parking areas, or exterior building or structure walls
 - » A change or relocation of streets
 - » An alteration, whether an increase or decrease, in the amount of any land use in any stage of the development by more than 5%
 - » A reduction in the number of parking spaces or an increase of more than ten spaces

NONCONFORMITIES



Nonconformity regulations should be updated to specifically address each type of nonconforming situation.

The nonconformities section should be rewritten for clarity and include separate provisions for nonconforming uses, structures, site characteristics, and lots. The updated provisions should clearly spell out what types of changes and/or alterations are permissible. The following are the types of nonconformities should be addressed:

- **Nonconforming use.** A nonconforming use is the existing, legal use of a structure or land that is not allowed within the district, created either prior to the effective date of this Ordinance or, as of the effective date of this Ordinance and any subsequent amendment, is made nonconforming. If a use is discontinued or abandoned for a set period of time, then the nonconforming use cannot be re-established. The current Ordinance states a two year period within a structure; it should be noted that one year is more common. (Current discontinuance provisions were no structure is in place should be maintained.)
- **Nonconforming structure.** A nonconforming structure is an existing, legal structure that does not conform to the standards of the district where it is located, created either prior to the effective date of this Ordinance or, as of the effective date of this Ordinance and any subsequent amendment, is made nonconforming. The current provisions, including the proposed amendments, for a nonconforming structure are sound. However, it would be clarified that these applies to a nonconforming structure – not a nonconforming use, which is regulated separately. If the current regulations on a minimum dwelling unit size are maintained, it is recommended to “deem conforming” those existing residences that do not comply. By deeming these structures conforming, an owner can continue to make repairs and improvements without a variance and without creating financing issues because of nonconforming status. Once the structure is torn down, the deemed conforming status is revoked and new structures must comply with all district regulations.
- **Nonconforming site characteristic.** A nonconforming site characteristic is an existing, legal site characteristic, such as landscape or parking, that does not comply with the standards of this Ordinance, created either prior to the effective date of this Ordinance or, as of the effective date of this Ordinance and any subsequent amendment, is made nonconforming. This would be a new category of nonconformity for the City.
- **Nonconforming lot.** A nonconforming lot is an existing lot of record that does not comply with the lot area and/or width standards of this Ordinance, created either prior to the effective date of this Ordinance or, as of the effective date of this Ordinance and any subsequent amendment, is made nonconforming. The lot should be allowed to be used for a principal use allowed in the district, but must meet all other district standards (except for lot area and width).

New regulations for nonconforming site characteristics should be added.

Rather than render a structure nonconforming because of a site characteristic related to the building, flexibility should be built into the Ordinance by creating a separate nonconformity category for elements such as landscape and parking. The regulations would allow normal maintenance and incidental repair to a nonconforming site element, but prohibit repairs or reconstruction that would create any new nonconformity or increase the degree of the previously existing nonconformity. The regulation would also spell out when nonconforming site elements must be brought into conformance – such as when a new principal structure is constructed on a site, an existing principal structure is increased in floor area by a certain amount, an existing parking lot is fully reconstructed or an existing parking lot is expanded, or in more specific circumstances related to that element, such as when 50% or more of the length of a nonconforming fence is reconstructed.

Amortization references should be deleted.

In the proposed amendment and in current regulations, the regulations are categorized as an amortization. The use of the term amortization is incorrect and should be eliminated. (For informational purposes, amortization requires an active use to discontinue or a structure to be taken down within a set period of time and may require compensation from the Village.)

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Technical Review Report

VILLAGE OF METTAWA, ILLINOIS | CAMIROS | OCTOBER 2018

