

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



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# **VILLAGE OF METTAWA, ILLINOIS**

## ***ZONING ORDINANCE - ZPA RECOMMENDED DRAFT***

*\* Regulations dealing with animals have been moved to the revised Animal Control Ordinance. They are not addressed in the Zoning Ordinance.*

*\* This draft contains red notes intended to provide clarification on the origins of certain new or revised regulations. These will be automatically removed for the adopted draft.*

**NOVEMBER 2019**



# Table of Contents

		Section - Page Number
<b>Article 1. Title, Purpose, &amp; Applicability</b>		<b>1-1</b>
1.1	TITLE	1-1
1.2	PURPOSE	1-1
1.3	APPLICABILITY	1-1
1.4	TRANSITION RULES	1-2
1.5	SEVERABILITY	1-3
<b>Article 2. Definitions and Rules of Measurement</b>		<b>2-1</b>
2.1	RULES OF INTERPRETATION	2-1
2.2	GENERAL ABBREVIATIONS	2-1
2.3	DEFINITION OF GENERAL TERMS	2-1
2.4	RULES OF MEASUREMENT	2-12
<b>Article 3. Zoning Map</b>		<b>3-1</b>
3.1	ZONING DISTRICTS	3-1
3.2	DISTRICT ZONING MAP	3-1
3.3	ANNEXED LAND	3-2
3.4	EXEMPTIONS FOR RIGHTS-OF-WAY AND PUBLIC UTILITIES	3-2
<b>Article 4. Residential Districts</b>		<b>4-1</b>
4.1	PURPOSE	4-1
4.2	USES	4-1
4.3	DIMENSIONAL STANDARDS	4-1
4.4	GENERAL STANDARDS OF APPLICABILITY	4-2
<b>Article 5. Commercial Districts</b>		<b>5-1</b>
5.1	PURPOSE	5-1
5.2	USES	5-1
5.3	DIMENSIONAL STANDARDS	5-1
5.4	GENERAL STANDARDS OF APPLICABILITY	5-2
<b>Article 6. Special Purpose Districts</b>		<b>6-1</b>
6.1	SCENIC EASEMENT OVERLAY	6-1
6.2	OPEN SPACE DISTRICT	6-3
<b>Article 7. Uses</b>		<b>7-1</b>
7.1	GENERAL USE REGULATIONS AND RESTRICTIONS	7-1
7.2	USE MATRIX	7-1
7.3	USE STANDARDS	7-3
7.4	USE DEFINITIONS	7-8
<b>Article 8. On-Site Development Standards</b>		<b>8-1</b>
8.1	GENERAL REQUIREMENTS	8-1
8.2	ACCESSORY STRUCTURES AND USES	8-1
8.3	PERMITTED ENCROACHMENTS	8-8
8.4	TEMPORARY USES	8-9
8.5	PERFORMANCE STANDARDS	8-11

# Table of Contents

Section - Page Number

<b>Article 9. Off-Street Parking and Loading</b>	<b>.....</b>	<b>9-1</b>
9.1	GENERAL PROVISIONS .....	9-1
9.2	LOCATION OF PARKING SPACES .....	9-2
9.3	OFF-STREET PARKING SPACE AND PARKING FACILITY DESIGN STANDARDS .....	9-2
9.4	REQUIRED OFF-STREET VEHICLE SPACES .....	9-5
9.5	REQUIRED OFF-STREET LOADING SPACES .....	9-7
9.6	COMMERCIAL AND RECREATIONAL VEHICLE STORAGE .....	9-7
<b>Article 10. Landscape</b>	<b>.....</b>	<b>10-1</b>
10.1	PURPOSE AND APPLICABILITY .....	10-1
10.2	REQUIRED LANDSCAPE SELECTION, INSTALLATION AND MAINTENANCE .....	10-1
10.3	REQUIRED LANDSCAPE DESIGN STANDARDS .....	10-2
10.4	PARKING LOT PERIMETER LANDSCAPE .....	10-2
10.5	PARKING LOT INTERIOR LANDSCAPE .....	10-3
10.6	SITE LANDSCAPE .....	10-4
10.7	BUFFER YARD .....	10-5
<b>Article 11. Zoning Administration</b>	<b>.....</b>	<b>11-1</b>
11.1	ZONING OFFICIALS .....	11-1
11.2	PERMIT .....	11-2
11.3	APPLICATION PROCESSES GENERALLY .....	11-2
11.4	ZONING TEXT AND MAP AMENDMENTS .....	11-6
11.5	SPECIAL USE .....	11-7
11.6	VARIATION .....	11-10
11.7	SITE PLAN REVIEW .....	11-12
11.8	ZONING INTERPRETATION .....	11-14
11.9	ZONING CERTIFICATE .....	11-15
11.10	ZONING APPEALS OF ZONING ADMINISTRATOR DECISIONS .....	11-15
11.11	OCCUPANCY CERTIFICATE .....	11-16
<b>Article 12. Planned Unit Developments</b>	<b>.....</b>	<b>12-1</b>
12.1	PURPOSE .....	12-1
12.2	COMMON OWNERSHIP .....	12-1
12.3	REQUIRED MINIMUM SIZE .....	12-1
12.4	PUD PROCEDURE .....	12-1
12.5	DEVELOPMENT PLAN REQUIREMENTS .....	12-4
12.6	PUD REVIEW STANDARDS .....	12-6
12.7	PERMITTED MODIFICATIONS AND PUD SPECIFIC STANDARDS .....	12-7
12.8	PUBLIC IMPROVEMENTS AND GUARANTEES .....	12-8
12.9	REQUIRED COMMON OPEN SPACE .....	12-9
12.10	RECORDATION .....	12-10
12.11	CONSTRUCTION TIMING .....	12-10
12.12	AMENDMENTS TO APPROVED PUD .....	12-11
<b>Article 13. Nonconformities</b>	<b>.....</b>	<b>13-1</b>
13.1	GENERAL APPLICABILITY .....	13-1
13.2	NONCONFORMING USES .....	13-1
13.3	NONCONFORMING LARGE STABLES .....	13-2
13.4	NONCONFORMING STRUCTURES .....	13-4
13.5	NONCONFORMING LOTS OF RECORD .....	13-5
13.6	NONCONFORMING SITE ELEMENTS .....	13-5

# Table of Contents

Section - Page Number

---

**Article 14. Enforcement ..... 14-1**

- 14.1 GENERAL ENFORCEMENT AUTHORITY AND DUTY ..... 14-1
- 14.2 VIOLATIONS ..... 14-1
- 14.3 CIVIL AND ADMINSTRATIVE ENFORCEMENT ..... 14-1
- 14.4 PROCEEDINGS TO PREVENT VIOLATION AND STAY ..... 14-2
- 14.5 PENALTIES ..... 14-2



## Article 1. Title, Purpose, & Applicability

- 1.1 TITLE
- 1.2 PURPOSE
- 1.3 APPLICABILITY
- 1.4 TRANSITION RULES
- 1.5 SEVERABILITY

### 1.1 TITLE

#### Standard language

This Zoning Ordinance, which incorporates the Official Zoning Map, is known, cited, and referred to as the "Mettawa Zoning Ordinance," "Zoning Ordinance," or "Ordinance."

### 1.2 PURPOSE

The intent of this Ordinance is to establish land use regulations to serve the Village of Mettawa. The purpose of this Ordinance is to:

#### Updated to be more concise and clear

- A. Promote the public health, safety, and welfare.
- B. Promote the orderly development of the Village in accordance with the Comprehensive Plan and adopted land use policies.
- C. Divide the Village into zoning districts, according to use of land and structures, bulk of structures, intensity of the use of the lot, and/or other classification, as deemed best suited to carry out the purposes of this Ordinance.
- D. Preserve and protect the rural character of the Village and enhance the value of structures, communities, and neighborhoods within the Village.
- E. Support economic development that balances the needs of the current and future economy with a high quality of life standard.
- F. Provide for preservation, protection, and conservation of natural resources.
- G. Promote the principles of sustainability.
- H. Maintain, develop, and plan for public facilities and utilities in an economical and environmentally sound manner.
- I. Provide for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.
- J. Provide for the gradual elimination of nonconformities.

### 1.3 APPLICABILITY

#### This is standard ordinance language that has been added to clarify how the ordinance as a whole applies

#### A. Territorial Application

This Ordinance applies to all land, uses, and structures within the Village.

#### B. General Application

In their interpretation and application, the provisions of this Ordinance are held to be the minimum requirements for the promotion and protection of the public health, safety, and welfare.

#### C. Required Conformance

Any portion or whole of a structure must be erected, constructed, reconstructed, moved, or enlarged in conformance with the requirements of this Ordinance. Any structure or land must be used and occupied in conformance with the requirements of this Ordinance.

#### **D. Relation to Private Agreements**

This Ordinance does not nullify any private agreement or covenant. However, where this Ordinance is more restrictive than a private agreement or covenant, this Ordinance controls. The Village does not enforce any private agreement.

**Clarified that the Village does not enforce these agreements**

#### **E. Relation to Other Laws and Regulations**

Unless otherwise specifically provided, this Ordinance controls over less restrictive statutes, ordinances, or regulations, and more restrictive statutes, ordinances, or regulations control over the provisions of this Ordinance.

#### **F. Rules Regarding Illustrations and Graphics**

Any illustrations, graphics, and/or photos contained in this Ordinance are to assist the reader in understanding and applying the Ordinance. If there is any inconsistency between the text of the Ordinance and any such illustration, graphic, and/or photo, the text controls unless specifically stated otherwise.

### **1.4 TRANSITION RULES**

**This is standard ordinance language that has been added to clarify the transition upon adoption**

#### **A. Existing Uses**

1. Any use of land that was classified a permitted use prior to the effective date of this Ordinance or any subsequent amendment to this Ordinance, and is classified as a permitted use as of the effective date of this Ordinance or any subsequent amendment to this Ordinance, remains classified as a permitted use.
2. Any use of land that was classified a special use prior to the effective date of this Ordinance or any subsequent amendment to this Ordinance, and is classified as a special use as of the effective date of this Ordinance or any subsequent amendment to this Ordinance, remains a special use and is subject to the special use ordinance under which it was approved.
3. Any use of land that was classified as a permitted use prior to the effective date of this Ordinance or any subsequent amendment to this Ordinance, and is classified as a special use as of the effective date of this Ordinance or any subsequent amendment to this Ordinance, is classified as a special use. Any subsequent addition, enlargement, or expansion of that use must obtain a special use approval.
4. Any use of land that was classified as a special use prior to the effective date of this Ordinance or any subsequent amendment to this Ordinance, and is now classified as a permitted use as of the effective date of this Ordinance or any subsequent amendment to this Ordinance, is classified as a permitted use, so long as such use, and/or any subsequent addition, enlargement, or expansion, of that use conforms to all Ordinance requirements for such use.
5. Any use of land classified as either a permitted use or special use prior to the effective date of this Ordinance or any subsequent amendment to this Ordinance, which is no longer allowed by this Ordinance or any subsequent amendment to this Ordinance as either a permitted or special use in the zoning district in which it is located, is classified as a nonconforming use.

#### **B. Structures Rendered Nonconforming**

Any structure existing lawfully prior to the effective date of this Ordinance, or any subsequent amendment to this Ordinance, that does not meet all standards for the zoning district in which it is located, as set forth in this Ordinance or any subsequent amendment to this Ordinance, is classified as a nonconforming structure.

#### **C. Lots Rendered Nonconforming**

Any lot conforming to all requirements of the Zoning Ordinance in effect prior to the effective date of this Ordinance or any subsequent amendment to this Ordinance, that does not meet all standards set forth in this Ordinance, or any subsequent amendment to this Ordinance is classified as a nonconforming lot. This does not apply to any such lot that does not meet all standards set forth in this Ordinance solely by virtue of a taking for right-of-way.

#### **D. Unlawful Uses, Structures, or Lots**

Any use of land, structure or lot not lawfully existing prior to the effective date of this Ordinance that does not comply with the requirements of this Ordinance, shall continue to remain unlawful.



**E. Site Elements Rendered Nonconforming**

If a site element existing on the effective date of this Ordinance was conforming before the effective date of this Ordinance or any subsequent amendment to this Ordinance, but such site element does not meet all standards set forth in this Ordinance in the zoning district in which it is located, that site element is classified as a nonconforming site element.

**F. Existing Unlawful Uses**

Any use that was unlawful at the time of the adoption of this Ordinance that is in conflict with the requirements of this Ordinance remains unlawful.

**G. Previously Issued Building Permits**

If a building permit for a structure was lawfully issued prior to the effective date of this Ordinance, or any subsequent amendment to this Ordinance, and if construction has begun within 90 days of the issuance of that permit, the structure may be completed in accordance with the plans on the basis of which the building permit was issued and may, upon completion, be occupied for the use originally intended.

**H. Previously Granted Variances**

All variance approvals granted prior to the effective date of this Ordinance, or any subsequent amendment to this Ordinance, remain in full force and effect. The recipient of the variance may proceed to develop the property in accordance with the approved plans and all applicable conditions.

**I. Existing Planned Unit Developments**

Previously approved planned unit developments (PUD) remain in effect and continue to control the development of land that is subject to the PUD. Any amendments to existing PUD are subject to the amendment procedures of this Ordinance.

**J. Pending Applications**

An application that has been received and deemed complete, and scheduled for a public hearing or meeting is subject to the rules in effect on the date the application was deemed complete.

**1.5 SEVERABILITY**

**Standard language**

If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate, or nullify the remainder of this Ordinance. The effect of the judgment is confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which judgment or decree was rendered.



## Article 2. Definitions and Rules of Measurement

- 2.1 RULES OF INTERPRETATION
- 2.2 GENERAL ABBREVIATIONS
- 2.3 DEFINITION OF GENERAL TERMS
- 2.4 RULES OF MEASUREMENT

**DEFINITIONS IN THE CURRENT ORDINANCE THAT WERE INCLUDED FROM THE LAKE COUNTY STORMWATER ORDINANCE WERE DELETED. THE DEFINITIONS OF THE LAKE CO. SWM ORDINANCE CONTROL AND INCLUDING THEM HERE CREATES CONFLICTS AND IS CONFUSING TO THE USER AS THEY ARE NOT USED ANYWHERE IN THE ORDINANCE.**

**USE DEFINITIONS FROM THE USE TABLE ARE INCLUDED IN THAT CHAPTER AND ARE ONLY REFERENCED HERE.**

### 2.1 RULES OF INTERPRETATION

The terms in the text of this Ordinance are interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and future tenses, and the future tense includes the present.
- C. The terms “must,” “shall,” and “will” are mandatory.
- D. The term “may” is permissive.
- E. The terms “must not,” “will not,” “cannot,” “may not,” and “shall not” are prohibiting.
- F. Any gender includes all genders.
- G. Whenever a defined word or term appears in the text of this Ordinance, its meaning must be construed as set forth in the definition. Words not defined must be interpreted in accordance with the definitions considered to be normal dictionary usage.

### 2.2 GENERAL ABBREVIATIONS

The following abbreviations may be used within this Ordinance:

- A. GFA is an abbreviation for “gross floor area.”
- B. ft is an abbreviation for “feet.”
- C. N/A is an abbreviation for “not applicable.”
- D. sf is an abbreviation for “square feet.”
- E. SF is an abbreviation for “single-family.”

### 2.3 DEFINITION OF GENERAL TERMS

The following are definitions of general terms used throughout this Ordinance with the exception of use definitions, which are defined in Article 7.

**CURRENT DEFINITIONS HAVE BEEN UPDATED, WITH THOSE THAT ARE STILL WORKING RETAINED AS IS. WITH NEW REGULATIONS ADDED, ADDITIONAL DEFINITIONS HAVE BEEN ADDED. (AGAIN, DEFINITIONS FROM THE OLD LAKE COUNTY SWM ORDINANCE HAVE BEEN DELETED.)**

**Abut.** To share a common wall or lot line without being separated by a street or alley.

**Accessibility Ramp.** A ramp or similar structure that provides wheelchair or similar access to a structure.

**Access.** A way or means of approach to provide physical entrance to a property or capability for physical entrance to a property.

**Accessory Structure.** A subordinate detached structure located on the same lot as a principal building, the use of which is subordinate to that of the principal building or use of the lot. An accessory structure includes an accessory building.

**Accessory Structure, Detached.** An accessory structure surrounded by open space located on the same lot as the principal building.

**Accessory Use.** A use which is ancillary or customarily incidental to the principal use of or upon the lot.

**Active Recreation.** Exclusive of pedestrian, equestrian, and bicyclist use of the Mettawa Trail, recreation characterized by the participation in sports programs, usually involving high vehicle trip generation or having the potential for greater nuisance to adjacent properties due to light, noise, glare and/or odor.

**Addition.** Any change that increases the floor area or height of the building or structure.

**Adjacent.** Touching, lying immediately next to, abutting, and/or sharing a common wall or lot line.

**Adult Use.** See Section 7.4.

**Agriculture.** See Section 7.4.

**Allowable Use.** A use allowed in a given zoning district under the terms of this Chapter as either a permitted use or special use.

**Amateur (HAM) Radio Equipment.** An amateur (HAM) radio station licensed by the Federal Communications Commission (FCC), including equipment such as, but not limited to, a tower or building-mounted structure supporting a radiating antenna platform and other equipment.

**Antenna.** Any structure or device, including directional antenna such as panels, microwave dish, satellite dish, and omni-directional antenna such as a whip antenna, designed for the purpose of collecting or transmitting electromagnetic waves for telephonic, radio, data, internet or other communications, including appurtenant equipment attached to a tower or building for the purpose of providing personal wireless services, including, for example: "cellular," "paging," "low power mobile radio," and "personal communications services" telecommunications services, and their attendant base stations. Antenna does not include a satellite dish of less than 40 inches at its widest point

**Antenna Height.** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the antenna support structure, even if said highest point is an antenna. Measurement of tower height includes antennas, base pad, and other appurtenances and is measured from the grade of the site. If the antenna support structure is on a sloped grade, then the average between the highest and lowest grades is used in calculating the antenna height.

**Antenna Support Structure.** Any building, pole, mast, tower, tripod, or other structure which supports or is a component part of the overall structure supporting an antenna.

**Architectural Feature.** A part or projection that contributes to the aesthetics of a structure, exclusive of signs, that is not necessary for the structural integrity of the structure or to make the structure habitable.

**Arena/Arena Building.** A large horse barn accessory to a large stable for horses that may include an indoor ring or riding area for the sole use of the residents of the development and their guests.

**Art Gallery.** See Section 7.4.

**Arts and Fitness Studio.** See Section 7.4.

**Assembly Space.** An area within any place of public assembly, whether within a structure or out of doors, where it is expected public assemblies will take place on a recurring basis whether for the same or different purposes.

**Auditorium.** A room, hall or building made a part of a church, temple, theater, school, recreation building, or other building assigned to the gathering of people as an audience to hear lectures, plays, and other presentations.

**Awning.** A temporary shelter supported entirely from the exterior wall of a building, which shelter is composed of non-rigid materials, and which is either stationary or able to be retracted, folded, or collapsed against the face of the supporting building.

**Balcony.** A platform projecting from the wall of a building supported by pillars, brackets or consoles or cantilevers from the main part of the building and enclosed by a rail or coping.

**Bay Window.** A window that projects outward from the structure, which does not rest on the building foundation or on the ground.

**Bed and Breakfast.** A single-family residential dwelling where a resident/owner, who lives on the premises, provides lodging for a daily fee in guest rooms with no in-room cooking facilities and prepares meals for guests.

**Berm.** An embankment of earth with gentle slopes which may be used to divert storm water flows, to protect lower lying areas, to enhance landscaping, to screen view, or to provide a restriction to create storm water storage areas.

**Block.** See Section 2.4.

**Blockface.** See Section 2.4.

**Botanical Garden.** See Section 7.4.

**Buffer Yard.** An area within a property containing trees, shrubs, fences, walls, and berms, or any combination thereof, use to visually separate or screen the use of one property from another property, or to block noise, artificial light or other potential nuisances.

**Building.** A structure entirely enclosed with at least three substantial walls and a roof, securely affixed to the land, which is designed or intended for shelter, occupancy or use.

**Building Envelope/Building Pad Site.** The three-dimensional space within which the structure is permitted to be built on a lot for which a special use in the nature of a planned unit development is granted and shown upon the site plan made a part of such permit.

**Building Height.** See Section 2.4.

**Building Height Appurtenance.** In regard to building height, a functional or ornamental object accessory to and part of a building located on or above the main rooftop. Building appurtenances include, but are not limited to, chimneys, parapet walls, skylights, steeples, flag poles, smokestacks, cooling towers, elevator bulkheads, fire towers, water towers, ornamental towers and spires, rooftop accessory structures, necessary mechanical appurtenances, or penthouses to house mechanical appurtenances.

**Building Line.** A line measured at the building wall of a structure between parallel lot lines. For the purposes of establishing a building line, the building wall does not include permitted encroachments of architectural features, such as bay windows, eaves, and steps and stoops.

**Caliper.** See Section 2.4.

**Canopy.** A roof-like structure with posts or other ground support, constructed to provide shelter to pedestrians or vehicles.

**Carport.** A canopy for vehicle storage, open on three sides and attached to a principal building.

**Cell Site.** A tract or parcel of land that contains personal wireless telecommunications facilities including any antenna, an antenna support structure, accessory building(s), and off- street parking, and may include other uses associated with and ancillary to personal wireless services.

**Chimney.** A vertical shaft of reinforced concrete, masonry or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

**Co-Location.** Placement of equipment from more than one service or service provider on a single tower or site.

**Coldframe Structure.** A temporary unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.

**Commercial Use.** An activity conducted with the intent of realizing a profit from the sale of goods or services to others, including office uses. For the purpose of this Ordinance, a commercial use also includes the operation of non-profit organizations.

**Commercial WECS.** A WECS designed or operated to provide energy principally to consumers located off the premises whereon the WECS is located and does not meet the requirements established for a residential WECS.

**Commercial Wireless Telecommunications Services.** Licensed commercial wireless telecommunication services including cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services that are marketed to the general public.

**Common Open Space.** Natural features, public and private underground utilities, portions of a stormwater management system that consist of no structure having a height in excess of 24 inches above grade, the open space land in a planned unit development which is open to the sky and unobstructed except for swimming pools and cabanas, large stables, loafing sheds, and other permitted accessory uses and structures, including fencing; which open space, including the permitted accessory uses and structures thereon, is accessible and usable by all persons who occupy a principal use in that planned unit development.

**Common Ownership or Control.** With respect to planned unit developments, units of ownership or legal authority to act on behalf of all owners which must be evidenced by deed, contract, or other written guarantee.

**Comprehensive Plan.** The Official Mettawa Comprehensive Plan, as same may be amended from time to time.

**Conservation Easement.** An easement granted the Village in order to assure the continued existence of open space for the benefit of the public.

**Contiguous Ownership.** Ownership of any parcel or other tract of land by any person who simultaneously holds ownership to any adjacent parcel or tract of land.

**Cul-De-Sac.** A vehicular turnaround located at the termination of a dead-end street.

**Damage.** Any destruction of or loss to real property including but not limited to that caused by fire, windstorm, flooding, or act of God.

**Day.** A calendar day.

**Day Care Center.** See Section 7.4.

**Drive-Through Facility.** See Section 7.4.

**Driveway.** A private access way that provides direct access from a street to not more than one lot or principal building or use, unless otherwise allowed by this Ordinance.

**Dwelling - Guest House.** See Section 7.4.

**Dwelling - Single-Family.** See Section 7.4.

**Dwelling Unit.** One or more rooms in a building providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. The term dwelling unit does not include hotel rooms.

**Easement.** The right and privilege of a person to use the land of another for a specific purpose by lawful agreement.

**Eave.** The projecting lower edges of a roof overhanging the wall of a structure.

**Educational Facility - Vocational/Trade.** See Section 7.4.

**Encroachment.** The extension or placement of any structure, or a component of such, into a required setback or right-of-way.

**Exterior Lighting.** The illumination of an outside area or object by any man-made device that produces light by any means.

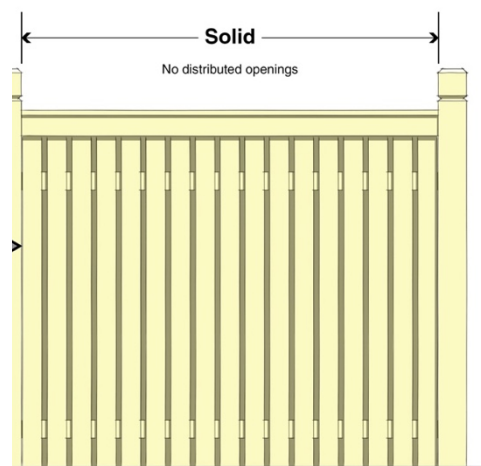
**FAA.** The Federal Aviation Administration of the United States of America.

**FCC.** The Federal Communications Commission of the United States of America.

**Fence.** A structure which is a barrier and which is used as a means of protection or confinement, providing privacy, security, weather control, aesthetic appearance, and/or boundary definitions for land and land uses.

**Fence, Solid.** A fence that has, over its entirety, no distributed openings and conceals an abutting property from view. A shadowbox design fence is considered a solid fence. A chain link fence with slats is not considered a solid fence.

### SOLID FENCE



**Financial Institution.** See Section 7.4.

**Floor Area Ratio (FAR).** See Section 2.4.

**Foot Candle.** The illumination in all points one foot distant from a uniform light source of one candle power.

**Footprint.** The specific area depicted upon a perimeter site plan which demonstrates the exact boundaries of structures, existing or proposed.

**Forest Preserve.** See Section 7.4.

**Frontage.** The portion of a lot or parcel of property extending along a street or right-of-way.

**Garage.** A structure, either attached or detached, designed and/or used for the parking and storage of vehicles. A detached garage is an accessory structure to a residence.

**Gas Station.** See Section 7.4.

**Glare.** Light emitting from a luminaire with an intensity great enough to reduce a viewers' ability to see, cause discomfort, and, in extreme cases, cause momentary blindness.

**Government Offices.** See Section 7.4.

**Grade.** See Section 2.4.

**Health Club.** See Section 7.4.

**Hedge.** A row of closely planted shrubs, bushes, or any kind of plant forming a boundary.

**Historic Structure.** Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on the State Inventory of Historic Places by the Illinois Historic Preservation Agency.
4. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

**Home Occupation.** Any commercial activity conducted by a resident upon residentially zoned property.

**Hotel.** See Section 7.4.

**Impervious Surface Coverage.** See Section 2.4.

**Indoor Recreation.** See Section 7.4.

**Infrastructure.** Facilities and services needed to sustain residential, commercial, industrial, institutional, and other activities, including, but not limited to, water lines, sewer lines, and rights-of-way.

**Intensity of Use.** Square feet of gross floor area, number of dwelling units, number of employees, or other factor used as a basis for requiring off-street parking or loading facilities.

**Invasive Species.** A species that is not native to a geographical location and that has a tendency to spread to a degree believed to cause damage to the native environment.

**Kennel.** The use of land and structures for the breeding and/or boarding of dogs for commercial purposes.

**Large Stables.** Buildings for the stabling of horses that exceed the permitted standard of the maximum number of horses per the Village's Animal Control Ordinance.

**Legal Description.** The description of real property established by law and created in specific cases from real property surveys drawn by licensed land surveyors.

**Livery Stable.** A stable from which horses are available for rent and/or for sale to the general public.

**Loading Space.** A space within a loading area exclusive of driveways, aisles, maneuvering areas, ramps, columns, landscape, and structures for the temporary parking of a commercial delivery vehicle while loading or unloading goods or materials.

**Loafing Shed.** Accessory to a stable, a roofed-over three sided structure, not a building, having the open side facing south and a maximum area of 300 square feet, for the sheltering of horses on a temporary basis.

**Lot.** See Section 2.4.

1. **Lot, Interior.** See Section 2.4.
2. **Lot, Corner.** See Section 2.4.
3. **Lot, Through.** See Section 2.4.
4. **Lot, Flag.** See Section 2.4.

**Lot Area.** See Section 2.4.



**Lot Coverage.** See Section 2.4.

**Lot Depth.** See Section 2.4.

**Lot Line.** See Section 2.4.

1. **Lot Line, Front.** See Section 2.4.
2. **Lot Line, Rear.** See Section 2.4.
3. **Lot Line, Corner Side.** See Section 2.4.
4. **Lot Line, Interior.** See Section 2.4.
5. **Lot Line Street.** See Section 2.4.

**Lot Width.** See Section 2.4.

**Maintain - Horses.** To keep, sustain, support and/or provide for a horse for 20 or more consecutive or non-consecutive hours within a given 24 hour period.

**Manufactured Home.** A manufactured home dwelling is a prefabricated structure that is regulated by the U.S. Department of Housing and Urban Development (HUD), via the Federal National Manufactured Housing Construction and Safety Standards Act of 1974, rather than local building codes. A manufactured home is built in a factory on an attached chassis before being transported to a site. Manufactured homes include those transportable factory built housing units built prior to the Federal National Manufactured Housing and Safety Standards Act (HUD Code), also known as mobile homes. Modular homes are not considered manufactured homes, and refer to a method of construction for a dwelling.

**Manufactured Home Park.** A parcel of land with single control or unified ownership that has been planned and improved for the placement of manufactured homes for residential use.

**Medical Cannabis Cultivation Facilities.** See Section 7.4.

**Medical Cannabis Dispensing Facilities.** See Section 7.4.

**Medical/Dental Clinic.** See Section 7.4.

**Mettawa Trail.** A path having a nominal minimum width of eight feet and a nominal maximum width of 12 feet, owned by the Village for use by the general public as and for equestrian, pedestrian and bicyclist use and located within a public right-of-way owned by or dedicated to the Village.

**Minimum Livable Floor Area.** See Section 2.4.

**Modular Home.** Modular buildings and modular homes are not considered manufactured homes, and refer to a method of construction. Modular buildings and modular homes are built in multiple sections called modules at a facility and then delivered to the site where the modules are set onto the building's foundation and joined together to make a single building. Modular buildings and modular homes must conform to all zoning requirements for the dwelling type and must meet all local building code requirements.

**Non-Assembly Space.** An area within any place of public assembly, whether within a structure or out of doors, used for offices, research and/or storage and not open to the general public for public assembly.

**Nonconforming Lot.** A lot of record that at one time conformed to the lot dimension requirements of the zoning district in which it is located, but because of subsequent amendments to the Ordinance no longer conforms to the applicable lot dimensions.

**Nonconforming Site Element.** A site development element, such as landscape or lighting, that was constructed or installed in conformance with the applicable zoning regulations, but because of subsequent amendments to the Ordinance, no longer conforms to the current requirements.

**Nonconforming Structure.** A principal or accessory structure that at one time conformed to applicable zoning regulations, but because of subsequent amendments to the Ordinance no longer conforms to applicable dimensional regulations.

**Nonconforming Use.** The use of a structure or land that at one time was an allowed use within a zoning district, but because of subsequent amendments to the Ordinance is no longer allowed.

**Office.** See Section 7.4.

**Office and Light Industrial Park.** See Section 7.4.

**Open Space.** That portion of land, either landscaped or left unimproved, which is used to meet active or passive recreation or spatial needs, and/or to protect water, air, or plant resources.

**Open Space - Public.** See Section 7.4.

**Open Space, Usable.** Open space which has slopes of less than 10% has all dimensions equal to a minimum of 20 feet, is located not less than 20 feet from residential wall containing a window, and is easily accessible by all residents occupying the same parcel or related parcels.

**Operator - Horses.** The owner of the land in question as well as any person leasing such land or otherwise contracting with the owner of the land for the operation of a stable.

**Owner.** The holder of legal title as well as holders of any equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at least 10 years, and the like. Whenever a statement of ownership and/or an application is required, full disclosure of all legal and equitable interest in the property is required.

**Ownership Parcel.** Any legally described parcel of land. This includes contiguous lots or parcels of land, owned in whole, or in part, by the same property owner.

**Parcel.** Any quantity of land capable of being described with such definiteness that its location and boundaries may be established.

**Parcel Identification Number (PIN).** Permanent index number used to identify properties for tax assessment.

**Parking Facility.** A parking lot and/or parking structure. Parking facility does not include parking areas for single-family dwellings or guest house dwellings.

**Parking Lot.** An open area, other than a street, used for the storage of operable passenger motor vehicles, whether for compensation or at no charge. Parking areas accessory to a single-family dwelling or guest house are not considered parking lots.

**Parking Structure.** A structure of one or more levels or floors used for the parking or storage of operable passenger motor vehicles, whether for compensation or at no charge. Parking structures, including detached and attached garages, accessory to a single-family dwelling or guest house are not considered parking structures.

**Party Wall.** A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another, but is in joint use by each building.

**Patio.** A surfaced area other than a deck, which is used for sitting or passive recreation.

**Perimeter.** The boundary of all of the land held in contiguous ownership, within which assembly space is located.

**Person.** Any individual, partnership, firm, association, joint stock company, corporation, unit of government or any combination of individuals of whatever form or character.

**Personal Services.** See Section 7.4.

**Personal Wireless Service/Personal Wireless Communications Facility.** The definition as contained in Title 47, United States Code, Section 332(C)(7)(c) and may include commercial wireless telecommunication services.

**Pervious Paving.** A range of sustainable materials and techniques for permeable paving with a base and sub-base that allow the movement of stormwater through the surface. Gravel and loose rock are not considered pervious paving.

**Places of Public Assembly.** See Section 7.4.

**Porch.** A roofed-over platform that is raised more than six inches above the underlying ground, which projects out from the wall or walls of a main structure and which may be open to the weather in part. A porch is open on all sides that do not abut a principal building wall.

**Principal Building.** The main or primary building on a parcel of land, as distinguished from an accessory structure such as a barn, garage, guest house, horse stable, or shed.

**Principal Use.** The main or primary function on a parcel of land, as distinguished from an accessory, ancillary, or secondary use.

**Radio/Television Towers - Transmitting and Receiving Equipment.** See Section 7.4.

**Reconstruction.** The act of rebuilding a structure or building.

**Record Drawings.** Construction drawings revised to show significant changes made during the construction process, usually based on marked-up paints, drawings, and other data furnished by the contractor to the Village.

**Recreational Vehicle.** Any vehicle or boat designed for temporary living quarters, recreation, or temporary human habitation and not used as a commercial vehicle including, but not limited to, the following: boat/watercraft, camper trailer, motorized trailer, off-road vehicle, racing car or cycle, travel trailer, and truck camper.

**Registered Land Surveyor.** A land surveyor registered in the State of Illinois, under The Illinois Land Surveyors Act (225 ILCS 325/1 et seq.).

**Registered Professional Engineer.** An engineer registered in the State of Illinois, under The Illinois Professional Engineering Act (225 ILCS 325/1 et seq.).

**Research and Development.** See Section 7.4.

**Restaurant.** See Section 7.4.

**Retail Sales.** See Section 7.4.

**Retaining Wall.** An artificial composition of wood, concrete, masonry or other material utilized in conjunction with a drainage and grading plan approved by the Village Engineer of the Village for the sole purpose of stabilizing soil and/or existing natural features.

**Right-of-Way.** A strip of land designated for use for vehicular or pedestrian access or passage or for installation of railroad tracks, utility lines, or similar facilities.

**Right-of-Way, Private.** A right-of-way that has not been dedicated by prescription or otherwise to or accepted by any government agency.

**Right-of-Way, Public.** A right-of-way that has been dedicated by prescription or otherwise to and accepted by a government agency.

**Satellite Dish Antenna.** A dish antenna designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication or other signals from other antennas, satellites or other services.

**Screening.** A structure erected or vegetation planted for the purpose of concealing an area from view.

**Setback.** See Section 2.4.

1. **Setback, Front.** See Section 2.4.

2. **Setback, Rear.** See Section 2.4.

3. **Setback, Corner Side.** See Section 2.4.

4. **Setback, Interior.** See Section 2.4.

**Shed.** An accessory structure, often purchased pre-built or as a kit in pre-fabricated sections, that is not designed to be served by heat or plumbing and does not need to be placed on a permanent foundation. A shed is typically intended to store lawn, garden, or recreational equipment.

**Short Term Rental.** A single room, dwelling, or portion thereof within a residential dwelling or detached accessory structure offered for rent or rented for a period of less than 90 consecutive days.

**Showroom - No Outdoor Storage.** See Section 7.4.

**Stable.** A building designed for the keeping and maintenance of and wherein horses are kept and maintained.

**Stacking Space.** A space specifically designed and designated as a waiting area for vehicles patronizing a drive-through facility or service bay.

**Stoop.** An exterior floor typically, constructed of stone, concrete, and/or masonry, with a finished floor elevation higher than the adjacent ground level, often with steps leading up to it, and utilized primarily as an access platform to a structure. A stoop may be roofed and designed with railings, but cannot be enclosed.

**Stream.** A course of running water flowing in a channel (includes creeks and rivers).

**Street.** A public or private way other than an alley, which affords a primary means of access to abutting property.

**Street Line.** A line separating a street right-of-way from other land, which line may be coextensive with front lot lines.

**Street, Private.** Any street other than a public street and other than a driveway.

**Street, Public.** A street that has been dedicated to and accepted by, under the jurisdiction of, or otherwise acquired by, a government agency.

**Structure.** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, including but not limited to buildings, garages, sheds, gazebos, decks, pools, walls, fences, etc.

**Structural Alteration.** Any change or replacement of the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls, but not including openings in bearing walls as permitted by ordinance.

**Subdivide.** To divide a lot or a parcel of land.

**Swale.** A vegetated channel, ditch or low-lying or depressional tract of land that is periodically inundated by conveying stormwater from one point to another.

**Temporary Structure.** A structure without any foundation or footings and which is movable and not meant to be placed on a permanent basis.

**Tower (Including Self-Supporting Lattice Towers, Guy Towers, Monopole Towers).** Any structure, typically higher than its diameter and high relative to its surroundings, that is designed and constructed primarily for the purpose of supporting one or more receiving and/or transmitting radio, television and/or microwave antennas; bells; windmills; etc. The term encompasses radio and/or television receiving or transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures, and the like.

**Use.** The purpose for which land or a structure is designed, arranged, or intended and for which it is occupied or maintained, let, or leased.

**Yard.** See Section 2.4.

1. **Yard, Front.** See Section 2.4.
2. **Yard, Rear.** See Section 2.4.
3. **Yard, Corner Side.** See Section 2.4.
4. **Yard, Interior Side.** See Section 2.4.

**Vehicle Rental Establishment - Secondary Use.** See Section 7.4.

**Visiting Horse.** A horse owned by a person brought upon the lot of another person and remaining there for less than 20 consecutive or non-consecutive hours within a given 24 hour period.

**Warehouse.** See Section 7.4.

**Wind Energy Conversion System.** See Section 7.4.

**Wind Turbines/Windmill.** A mill or turbine operated by the wind's rotation of large, oblique sails or vanes radiating from a shaft, used as a source of power.

**Wireless Facility, Small.** See Section 7.4.

**Wireless Telecommunications Facilities.** See Section 7.4.

**Wireless Telecommunications Service Tower.** Any ground-mounted pole, spire, structure or combination thereof including a mast, intended primarily for the purpose of mounting an antenna.

**Zoning Lot.** A lot or combination of lots, which is designated by its owner or developer to be used, developed, or built upon as a unit. A zoning lot may coincide with a lot of record or may be comprised of one or more lots of record.

**Zoning Map.** The map or maps that are a part of this Ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the Village.

## 2.4 RULES OF MEASUREMENT

This section provides the rules of measurement for the dimensional standards and locational characteristics within the Ordinance.

**THESE STANDARDS BUILD UPON CURRENT METHODOLOGIES AND ADD THOSE THAT ARE NEEDED FOR ORDINANCE INTERPRETATION.**

### A. Block and Blockface

**NEW**

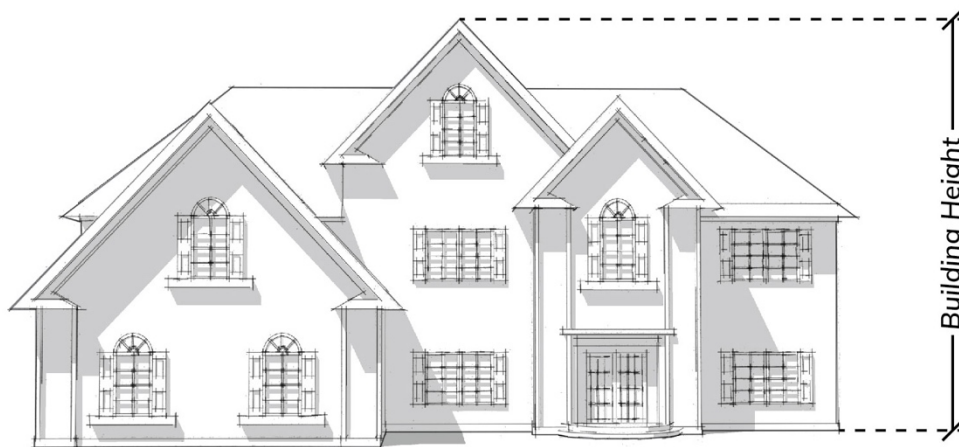
1. A block is a tract of land bounded by streets, or in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines, or shorelines of waterways or corporate boundary lines of municipalities.
2. Blockface is measured as that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

### B. Building Height

**Updated but the measurement to the highest point of the building is the same**

1. Maximum building height is measured from grade (see item E below) to the highest point of a principal building or accessory structure.
2. The following structures or parts thereof are exempt from maximum height limitations, unless otherwise limited by any height restriction imposed by any airport authority, or other similar federal, state, or local authority.
  - a. Public utility poles, towers, and wires. Public utilities do not include wireless telecommunications and wind turbines.
  - b. Water tanks (standalone) and standpipes.
  - c. Building height appurtenances may exceed the maximum building height by 15 feet.

#### BUILDING HEIGHT



**C. Caliper**

**NEW**

Tree caliper is the diameter of a tree trunk, measured at 4.5 feet above the adjacent ground.

**D. Coverage**

**Updated - the exclusion of the pole of the flag lot has been added in line with best practice**

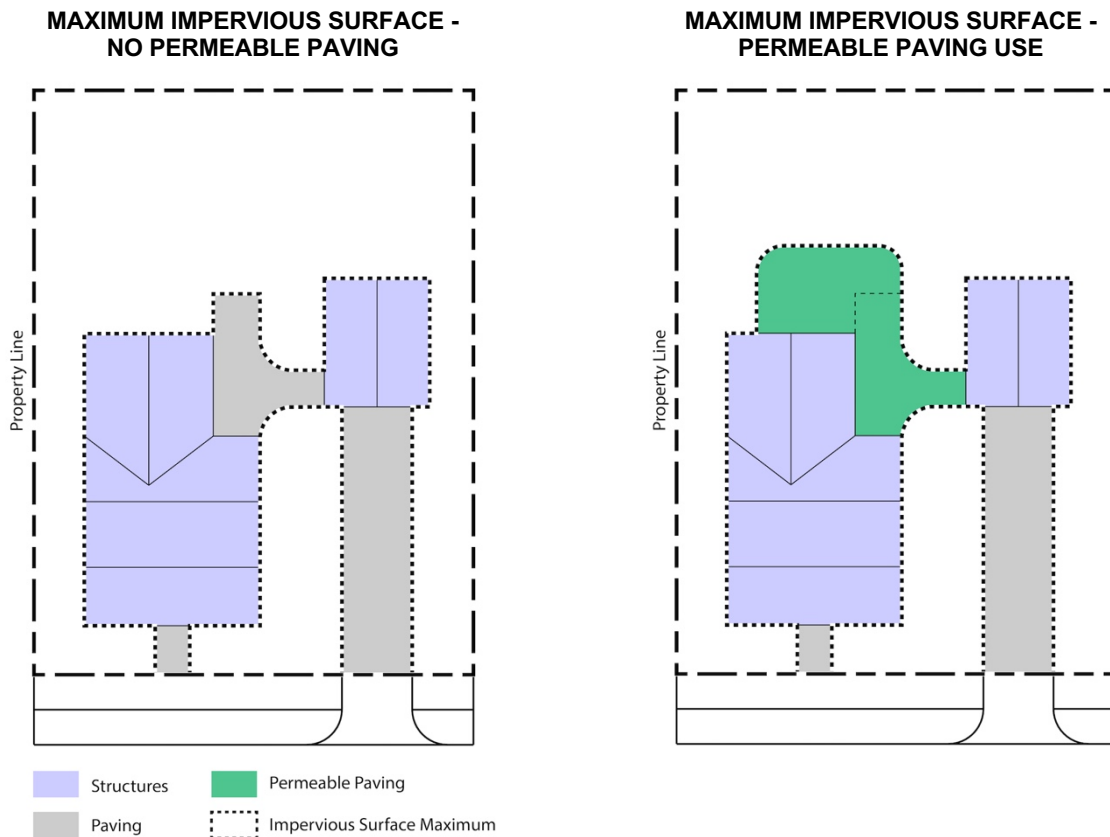
**1. Lot Coverage**

Lot coverage is the percentage of a lot that is occupied by principal buildings and accessory structures. Maximum lot coverage is calculated as the percentage of all principal building and detached accessory structure footprint area against the total area of the lot. The “pole” of a flag lot is not included in lot coverage calculations.

**2. Impervious Surface Coverage**

Impervious surface coverage is the percentage of a lot that is occupied by buildings, structures, pavement, and any other impervious surfaces that do not allow for the absorption of water into the ground. Maximum impervious surface of a lot is calculated as the percentage of all impervious surface area against the total area of the lot. The “pole” of a flag lot is not included in impervious surface calculations. When permeable paving is used, it is calculated as 50% impervious surface subject to verification by the Village Engineer that the system will be installed correctly to be pervious (e.g., if 100 square feet of area uses a grasscrete paving system, then only 50 square feet is counted as impervious surface).

**The above reduced calculation for use of permeable paving is new to encourage its use.**



**E. Grade**

**Simplified to reflect current application**

The average elevation of the ground surface of a lot measured at the location of the proposed corners of the proposed structure.

**F. Floor Area Ratio**

1. Floor area ratio (FAR) of the building or buildings on any zoning lot is the gross floor area of the building or buildings on that zoning lot divided by the area of such zoning lot.
2. Gross floor area is the sum of the gross horizontal area in square feet of the several floors of a building measured from the exterior face of the exterior walls devoted to such use, including accessory storage areas but excluding cellars, which is a level of a building having more than one-half of its height below grade.

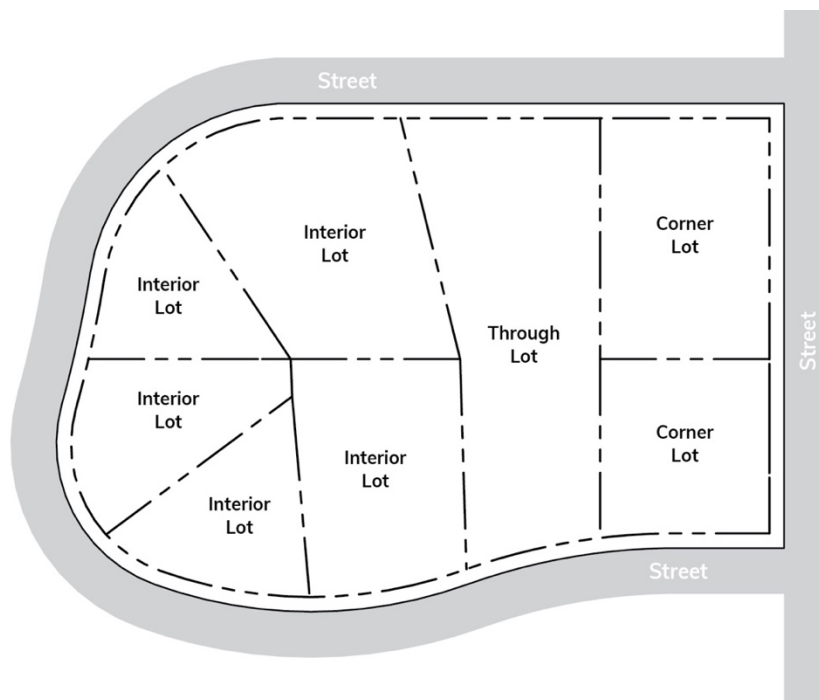
**G. Lot**

A lot is the basic development unit for determination of lot area, depth, and other dimensional regulations, whose boundaries have been established by some legal instrument such as a recorded deed or recorded map, with frontage upon a street. The following describes the types of lot configurations:

1. An interior lot is a lot other than a corner or through lot, bounded by two interior side lot lines.
2. A corner lot is a lot situated at the junction of, and abutting on, two or more intersecting streets.
3. A through lot is a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot. A through lot is also called a double frontage lot.
4. A flag lot is platted so that the main building site area (the “flag”) is set back from the street on which it fronts and includes an access strip (the “pole”) fronting upon that street and connecting the main building site with the street.

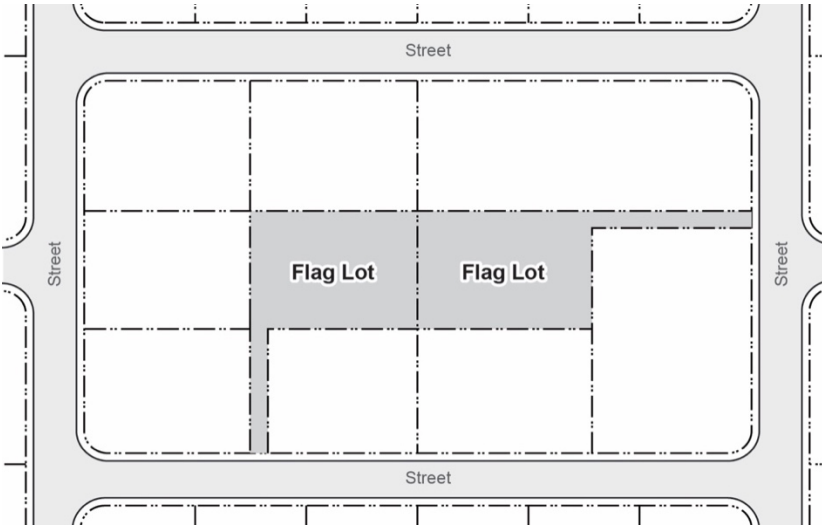
**Formerly called “lot in depth”**

**LOT TYPES - EXAMPLES: INTERIOR, THROUGH, & CORNER LOTS**





**LOT TYPES - EXAMPLE: FLAG LOT**



**H. Lot Area**

**NEW**

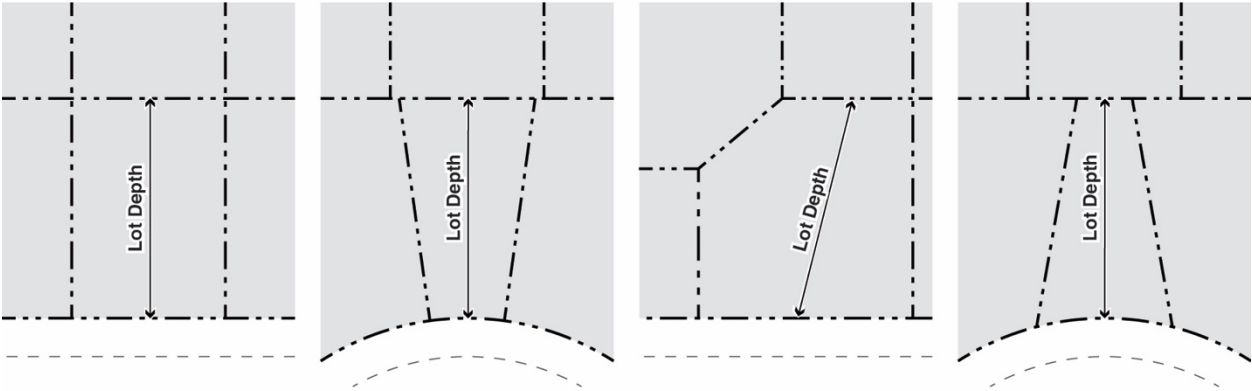
The total area within the boundaries of a lot, excluding any street right-of-way, usually defined in square footage.

**I. Lot Depth**

**NEW**

The mean horizontal distance between the front lot line and the rear lot line. In the case of a corner lot, the lot depth is the greater of the mean horizontal distance between the front lot lines and the respective lot line opposite each. For a flag lot, lot depth is the mean distance between the rear lot line opposite the non-stem portion of the front lot line.

**LOT DEPTH**



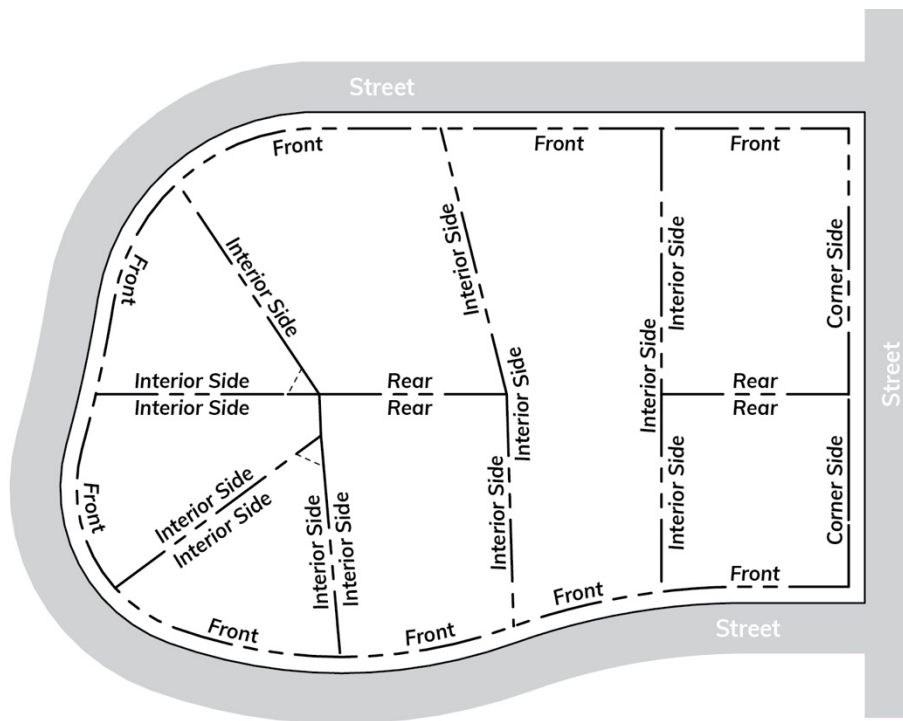
**J. Lot Line**

**NEW - Added provision for flag lot**

A line of record bounding a lot, which divides one lot from another lot or from a public or private street or any other public or private space, and includes:

1. A front lot line is the lot line separating a lot from a street right-of-way. The front lot line of a corner lot is the shortest street lot line of a corner lot abutting a street. A front lot line for a through lot is both lot lines that abut a street. The front lot line of a flag lot is the lot line of the “flag” portion of the lot.
2. A rear lot line is the lot line opposite and most distant from the front lot line. In the case of triangular or similarly irregularly shaped lots, the rear lot line is a calculated line of ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.
3. On a corner lot, the corner side lot line is perpendicular or approximately perpendicular to the front lot line and is the longer street abutting lot line of a corner lot.
4. On an interior lot, the interior side lot line is perpendicular or approximately perpendicular to the front lot line and abuts an adjacent lot.
5. A street lot line is any lot line separating a lot from a street right-of-way.

**LOT LINES**

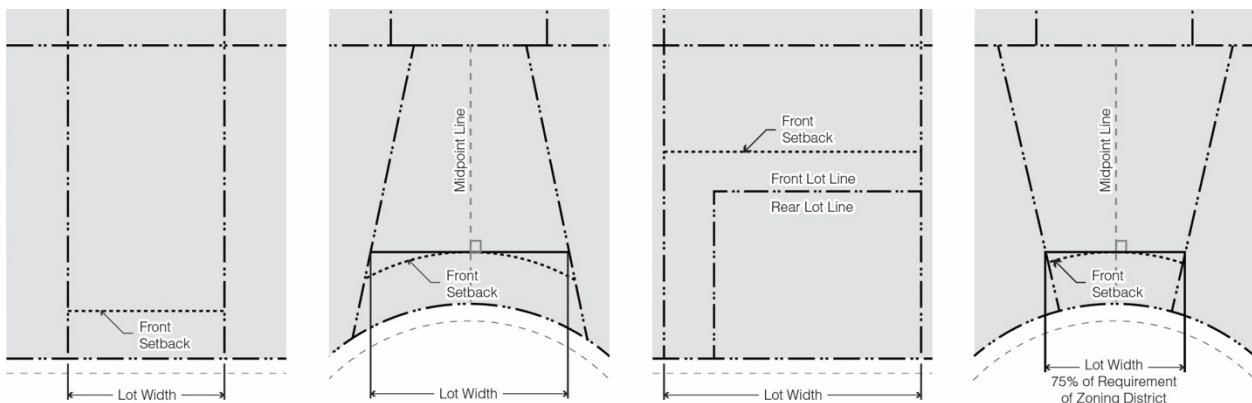


--- In the case of triangular or irregularly shaped lots, the rear lot line is a calculated line of ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

**K. Lot Width**  
**NEW**

1. For regular lots, lot width is the horizontal distance between the side lot lines measured at right angles to its depth along a straight line parallel to the required front setback.
2. For cul-de-sac lots, on those lots with a curved front lot line, lot width is measured as follows:
  - a. A line is drawn at the midpoint of the lot between the side lot lines, extending from the front lot line to the rear lot line.
  - b. Where the required front setback intersects the midpoint line at a right angle, a line is drawn perpendicular to the midpoint line.
  - c. Lot width is determined as the length of the line between side lot lines.
  - d. Where the side lot lines angle to increase width towards the rear, the required lot width measured at the required setback is 75% of the lot width required by the zoning district.
3. For flag lots, lot width is measured at the required front setback as defined in this section.

**LOT WIDTH**



**L. Minimum Livable Floor Area**  
**NEW**

Enclosed floor space arranged for living, eating, and sleeping purposes, including bathrooms, water closet compartments, laundries, pantries, foyers, hallways and other accessory floor spaces.

**M. Setbacks and Yards**  
**Updated to address all types**

**1. General Definitions**

- a. A required setback is the required minimum distance a principal building must be located from a lot line, which is unoccupied and unobstructed by a principal building, unless permitted by this Code. A setback is located along the applicable lot line for the minimum depth specified by the zoning district in which such lot is located.
- a. A yard is the open space area between the building line of a principal building and the adjoining lot lines, exclusive of facade articulation, such as window or wall recesses and projections. A setback may be equal to or lesser than a yard.

## 2. Front Yard and Front Setback

The front yard and front setback extend the full width of the lot between side lot lines measured perpendicular to the front lot line.

- a. Front Yard: A front yard is located between a principal building line and the front lot line.
- b. Front Setback: A front setback is the required minimum distance per the zoning district that a principal building must be located from the front lot line.
- c. A front setback is measured from the right-of-way line.
- d. Front setbacks on irregular lots are subject to the additional provisions:  
**NEW**
  - i. On a lot with a radial (curved) front lot line, the required front setback, as measured from the right-of-way line follows the curve of the lot line.
  - ii. For flag lots, the front yard and setback is measured from the rear lot line of the lot that separates the flag portion of the lot from the street. For multiple flag lots that utilize a common drive, the front yard and setback may be measured from the lot line of the pole or access strip, as extended into the lot.

## 3. Interior Side Yard and Interior Side Setback

The interior side yard and interior side setback extend along the interior side lot line between the front and rear yard or setback, measured perpendicular to the interior side lot line.

- a. Interior Side Yard: An interior side yard is located between a principal building line and the interior side lot line.
- b. Interior Side Setback: An interior side setback is the required minimum distance per the zoning district that a principal building must be located from the interior side lot line.

## 4. Corner Side Yard and Corner Side Setback

The corner side yard and corner side setback extend along the corner side lot line between the front yard or front setback and the rear lot line, measured perpendicular to the corner side lot line.

- a. Corner Side Yard: A corner side yard is located between a principal building line and the corner side lot line.
- b. Corner Side Setback: A corner side setback is the required minimum distance per the zoning district that a principal building must be located from the corner side lot line.

## 5. Rear Yard and Rear Setback

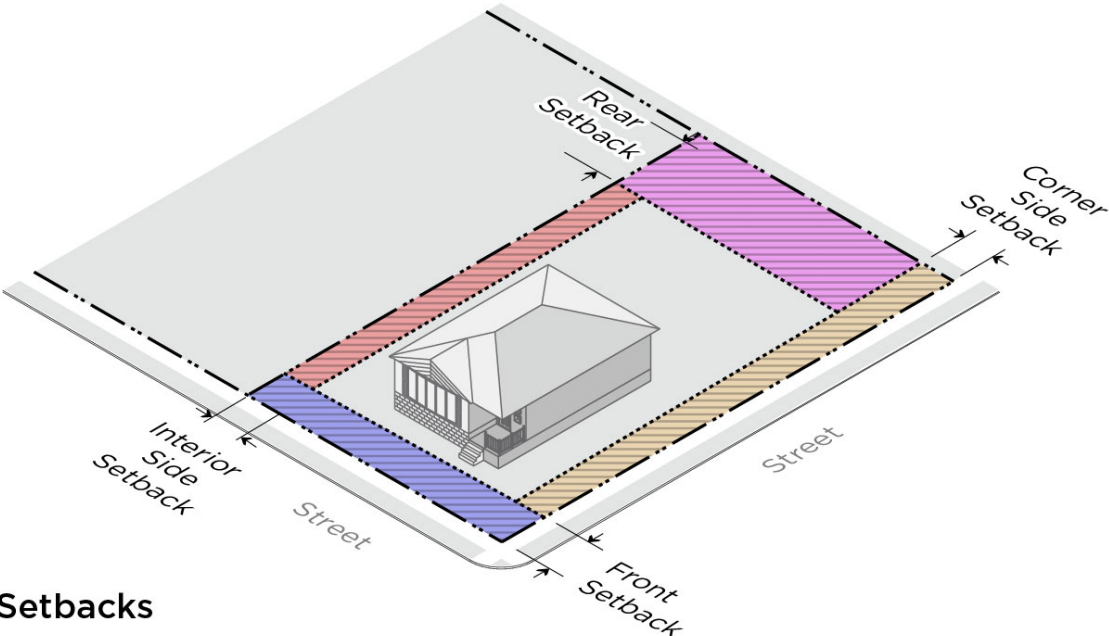
The rear yard and rear setback extend between interior side lot lines, measured perpendicular to the rear lot line.

- a. Rear Yard: A rear yard is located between a principal building line and the rear lot line.
- b. Rear Setback: A rear setback is the required minimum distance per the zoning district that a principal building must be located from the rear lot line.
- c. In the case of a corner lot, the rear yard and rear setback extend between the interior side lot line to the required corner side setback, measured perpendicular to the rear lot line.

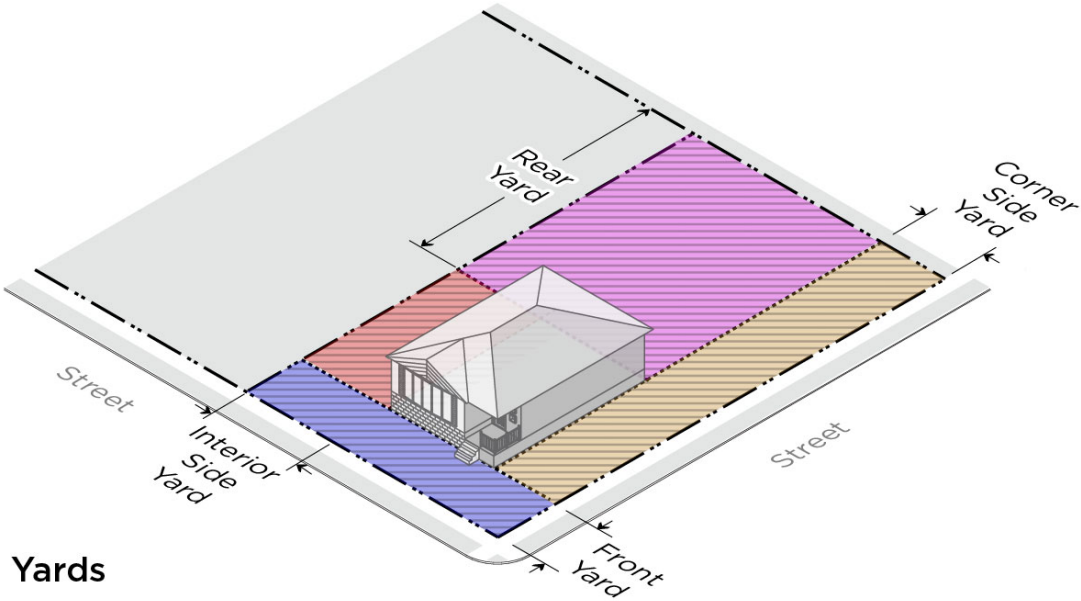
## 6. Yard and Setback Requirements for Through Lots

**NEW**

For through lots, both the front and the rear required setbacks must meet the required front setback of the zoning district.



Setbacks



Yards



## Article 3. Zoning Map

- 3.1 ZONING DISTRICTS
- 3.2 DISTRICT ZONING MAP
- 3.3 ANNEXED LAND
- 3.4 EXEMPTIONS FOR RIGHTS-OF-WAY AND PUBLIC UTILITIES

### 3.1 ZONING DISTRICTS

In order to carry out the purpose and intent of this Ordinance, the City is divided into the following zoning districts:

#### A. Residential Districts

R-1 Single-Family Residential District  
R-2 Single-Family Residential District

#### B. Commercial Districts

O/R Planned Office/Research District  
H Office/Hotel District  
TC Tollway Commercial District **This is a proposed new district to address the Tollway Oasis (see Article 5)**

#### C. Special Purpose Districts

Scenic Easement Overlay  
Open Space District

### 3.2 DISTRICT ZONING MAP

#### Updated

A. The boundaries of all zoning districts within the Village are hereby established, as shown on the Official Zoning Map. A copy of the Official Zoning Map is maintained and exhibited in the office of the Village Clerk and in the office of the Zoning Administrator.

B. Any land whose classification is not shown on the Official Zoning Map is classified as the R-1 District until a map amendment is approved.

C. Boundary lines are interpreted as follows:

1. Where the center line of a street, alley, public way, waterway, or railroad right-of-way serves as a zoning district boundary, the zoning of such areas, unless a particular zoning classification is otherwise specifically designated, is deemed to be the same as that of the abutting property up to such center line.
2. Where zoning district boundary lines coincide with a recorded property line, the property line is construed to be the boundary line of the district.
3. Where the district boundary lines do not coincide with a right-of-way line or recorded property line, the district boundary is determined by measuring such boundary line(s) by using the map scale as provided on the Official Zoning Map.

#### D. Clarification of Boundary Lines

The Zoning Administrator will decide any interpretations of zoning district boundary lines, where the application of this section leaves doubt as to the boundary between two zoning districts.

### **3.3 ANNEXED LAND**

#### **Simplified**

- A.** All land annexed to the Village is classified automatically upon such annexation as the R-1 District.
- B.** A petition for annexation to the Village of Mettawa may include a request from the petitioner that the land being annexed may, upon annexation, be zoned other than the R-1 District. Should such a request be contained in the petition, the proper authorities will refer the matter to the Zoning, Planning, and Appeals Commission to conduct a public hearing and make their recommendations. Following the recommendation of the Zoning, Planning, and Appeals Commission, the Village Board will proceed to take a vote as they normally do in zoning matters and notify the petitioner of the results. If the decision is adverse to his request, the petitioner then may withdraw his petition for annexation or may continue with it. Should no request for zoning other than R-1 District be made, the property upon annexation to the Village will automatically be classified to the R-1 District.

### **3.4 EXEMPTIONS FOR RIGHTS-OF-WAY AND PUBLIC UTILITIES**

#### **NEW**

The provisions of this Ordinance do not apply to land located within public rights-of-way.



## Article 4. Residential Districts

- 4.1 PURPOSE
- 4.2 USES
- 4.3 DIMENSIONAL STANDARDS
- 4.4 GENERAL STANDARDS OF APPLICABILITY

### 4.1 PURPOSE

These have been edited to acknowledge that certain low intensity non-residential uses are permitted (places of assembly, municipal services, etc.)

#### A. R-1 Single-Family Residential District

The R-1 Single-Family Residential District is intended for low density residential use, to provide areas well suited as to location and topography, and to accommodate large lot residential development. The district allows for very limited non-residential uses that are compatible with residential areas and/or assist in providing municipal services.

#### B. R-2 Single-Family Residential District

The R-2 Single-Family Residential District is established to provide low density residential areas for the principal use of single-family dwellings upon land with lesser land area than required by the R-1 District. The district allows for very limited non-residential uses that are compatible with residential areas and/or assist in providing municipal services.

### 4.2 USES

Article 7 lists permitted and special principal uses and temporary uses for the residential districts.

### 4.3 DIMENSIONAL STANDARDS

A. Table 4-1: Residential Districts Dimensional Standards establishes the dimensional standards for the residential districts. These regulations apply to all uses within each district unless a different standard is listed for a specific use.

B. The Scenic Easement Overlay design standards of Section 6.1 may apply.

4-1: Residential Districts Dimensional Standards		
	R-1	R-2
<b>BULK</b>		
Minimum Lot Area	200,000sf	40,000sf
Minimum Lot Width	300'	100'
Maximum Principal Building Height	40'	40'
Maximum Impervious Surface Coverage The current application of "lot coverage" is impervious surface not lot/building coverage therefore this has been renamed	15%	15%
Minimum Livable Floor Area	2,000sf for principal dwelling	2,000sf for principal dwelling
Minimum Required Garage Area	400sf for garage	400sf for garage
<b>SETBACKS</b>		
Minimum Front Setback	75'	35'
Minimum Interior Side Setback	50'	25'
Minimum Corner Side Setback	75'	35'
Minimum Rear Setback	75'	35'

#### 4.4 GENERAL STANDARDS OF APPLICABILITY

**A. Site Development Standards**

See Article 8 for additional on-site development standards and requirements, such as exterior lighting, accessory structures and uses, and permitted encroachments.

**B. Off-Street Parking and Loading**

See Article 9 for off-street parking and loading standards and requirements.

**C. Landscape**

See Article 10 for landscape, buffering, and screening standards and requirements.

## Article 5. Commercial Districts

- 5.1 PURPOSE
- 5.2 USES
- 5.3 DIMENSIONAL STANDARDS
- 5.4 GENERAL STANDARDS OF APPLICABILITY

### 5.1 PURPOSE

#### A. O/R Planned Office/Research District

The current O/R District is a PUD. Therefore we have revised this to reflect that any new O/R areas must be done as a 10 acre PUD. Please keep in mind that the current area continues to be controlled by the adopted PUD. The standards for the O/R District have been updated to reflect the adopted PUD and the on-the-ground conditions.

The O/R Planned Office/Research District is intended for office uses and limited business service uses to be developed within a park-like setting. The O/R District is required to be developed as a planned unit development and a minimum of ten acres in size in common ownership.

#### B. H Office/Hotel District

##### Simplified

The H Office/Hotel District, is intended for office uses and limited business service uses to be developed and maintained within a park-like setting in locations which abut or are adjacent to heavily traveled, multi-laned major roadways. The uses allowed may include facilities related to the traveler or highway user, as well as commercial activities that require large land areas. Certain facilities that serve governmental, educational, recreational, outdoor commercial, and other needs of the area may also be appropriate for the H District, subject to standards that preserve and protect compatibility with adjacent districts.

#### C. TC Tollway Commercial District

The current Zoning Map has the oasis as the R2 District, which is incongruous with purposes of that district and the uses allowed. The proposal is to create the new TC District for the oasis and require any such district to take main access from the tollway and be a minimum of ten acres in size. This way the Village can tailor standards like uses and signs to the oasis area. The limitations on where it can be located prohibits the use of this district elsewhere in the Village.

The TC Tollway Commercial District is intended for highway convenience commercial uses within a coordinated development that is limited to uses directed to those using or traveling on the tollway with main public access taken directly from the tollway. The TC District must front upon the tollway and be a minimum of ten acres in size.

### 5.2 USES

Article 7 lists permitted and special principal uses and temporary uses for the commercial districts.

### 5.3 DIMENSIONAL STANDARDS

A. Table 5-1: Commercial Districts Dimensional Standards establishes the dimensional standards for the residential districts. These regulations apply to all uses within each district unless a different standard is listed for a specific use.

B. The following restrictions apply to the O/R District:

##### NEW

1. All development in the O/R District is required to be a planned unit development.
2. A minimum district size of ten acres is required.
3. The standards of Table 5-1 apply to individual lots unless such standards are specifically modified by the PUD. We added basic setbacks for the O/R District, but the PUD that controls the current district area does not require any individual setbacks.

**C.** The following restrictions apply to the TC District:  
**NEW**

1. The TC District may only be mapped on land that fronts upon the tollway and has main public access from the tollway and is oriented toward tollway users.
2. A minimum district size of ten acres is required.

5-1: Commercial Districts Dimensional Standards			
	O/R <b>SEE NOTE BELOW FOR REASON FOR THESE REVISIONS</b>	H	TC <b>ALL STANDARDS ARE NEW</b>
<b>BULK</b>			
<b>Minimum Lot Area</b>	40,000sf	60,000sf	40,000sf
<b>Minimum Lot Width</b>	100'	100'	100'
<b>Maximum Building Height</b> <b>Eliminated stories</b>	45'	45'	45'
<b>Maximum FAR</b>	.50	.50	.50
<b>Maximum Impervious Surface</b>	75%	75%	80%
<b>SETBACKS</b>			
<b>Minimum Front Setback</b>	20'	50'	Abutting highway: None required Abutting other ROW: 20'
<b>Minimum Interior Side Setback</b>	15'	50' <b>This seems to be addressed somewhat in transitional yard standards. We recommend adding this dimension for the rare cases it might not apply</b>	None required
<b>Minimum Corner Side Setback</b>	20'	50'	Abutting highway: None required Abutting other ROW: 20'
<b>Minimum Rear Setback</b>	50'	50' <b>This seems to be addressed somewhat in transitional yard standards. We recommend adding this dimension for the rare cases it might not apply</b>	50' when abutting any district other than TC District

#### 5.4 GENERAL STANDARDS OF APPLICABILITY

**A. Site Development Standards**

See Article 8 for additional on-site development standards and requirements, such as exterior lighting, accessory structures and uses, and permitted encroachments.

**B. Off-Street Parking and Loading**

See Article 9 for off-street parking and loading standards and requirements.

**C. Landscape**

See Article 10 for landscape, buffering, and screening standards and requirements.

## Article 6. Special Purpose Districts

- 6.1 SCENIC EASEMENT OVERLAY
- 6.2 OPEN SPACE DISTRICT

### 6.1 SCENIC EASEMENT OVERLAY

This has restricted the current requirement into an Overlay District

#### A. Purpose

The Comprehensive Plan of the Village of Mettawa provides for the establishment of a system of scenic easements. Under the goals and objectives related to transportation policy, the Plan states: "*Continue the establishment of the scenic easement system where it provides a positive impact on the character of the roadway system.*"

#### B. Applicability

The system of scenic easements applies to all land adjacent to:

1. St. Mary's Road
2. Illinois Route 60
3. Everett Road
4. Riverwoods Road
5. Bradley Road
6. Old School Road between Bradley Road and St. Mary's Road

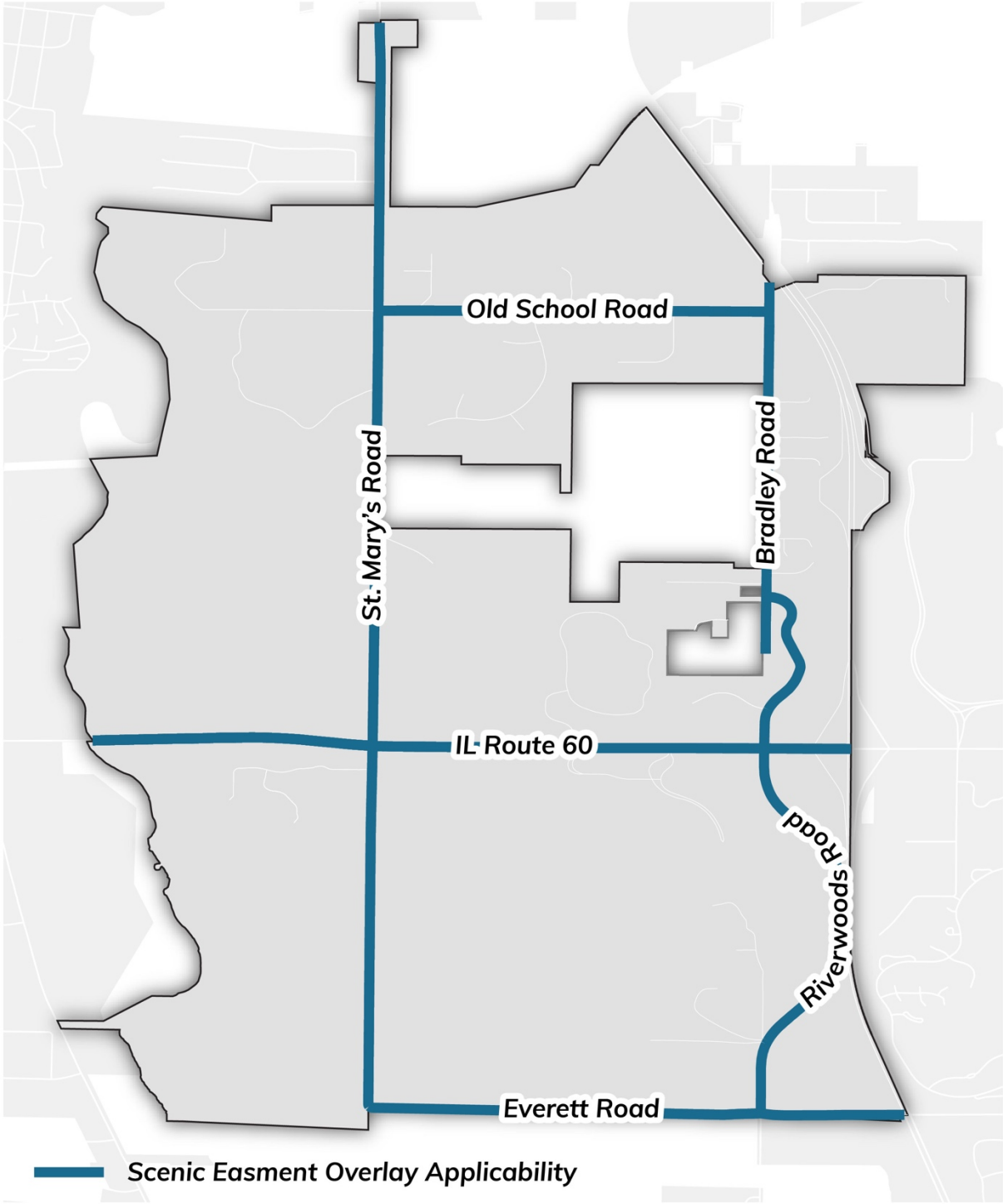
#### C. Easement Requirements

1. Scenic easements are established on all land 75 feet in depth measured from the nearest right-of-way line of the roads/streets listed in item B above.
2. All required front setbacks of the district are included within the 75 foot setback for the scenic easement overlay.
3. All plats of subdivision and resubdivision presented for approval containing land within the scenic easement overlay must provide for a dedication of scenic easement.

#### D. Map Reference

The map in Figure 6-1 illustrates where these easements apply. In the case of conflict between item B above (Applicability) and the map, item B controls.

FIGURE 6-1



**6.1 OPEN SPACE DISTRICT**

**A. Purpose**

The OS Open Space District is established to maintain and encourage the use of land for open space preservation and enhancement, to protect natural resources such as woodlands and wildlife areas, wetlands, and marshes, to preserve or provide for scenic vistas, and to provide for recreational activities and areas.

**B. Uses**

Article 7 lists permitted and special principal uses and temporary uses for the OS District.

**Currently the ordinance says that all structures in the OS District are a special use. This is not advised. With the new district standards below, can eliminated that provision and just allow them by-right in accordance with Table 6-1.**

**C. Dimensional Standards**

**These are new standards**

Table 6-1: OS District Dimensional Standards establishes the dimensional standards for the OS District. These regulations apply to all uses within each district unless a different standard is listed for a specific use.

<b>Table 6-1: OS District Dimensional Standards</b>	
<b>BULK</b>	
Minimum Lot Area	None
Minimum Lot Width	None
Maximum Building Height - Principal Structures Only	40'
<b>SETBACKS - APPLY TO PRINCIPAL STRUCTURES ONLY</b>	
Minimum Front Setback	35'
Minimum Interior Side Setback	25'
Minimum Corner Side Setback	35'
Minimum Rear Setback	35'

**D. General Standards of Applicability**

**1. Site Development Standards**

See Article 8 for additional on-site development standards and requirements, such as exterior lighting, accessory structures and uses, and permitted encroachments.

**2. Off-Street Parking and Loading**

See Article 9 for off-street parking and loading standards and requirements.

**3. Landscape**

See Article 10 for landscape, buffering, and screening standards and requirements.





## Article 7. Uses

- 7.1 GENERAL USE REGULATIONS
- 7.2 USE MATRIX AND RESTRICTIONS
- 7.3 USE STANDARDS
- 7.4 USE DEFINITIONS

### 7.1 GENERAL USE REGULATIONS

- A. No structure or land be used or occupied unless allowed as a permitted or special use within the zoning district.
- B. In the residential districts, only one principal use is allowed on a lot.
- C. All uses must comply with any applicable federal and state requirements, and any additional federal, state, or village ordinances.
- D. Any use that is not included in the use matrix and cannot be interpreted as part of a use within the matrix is prohibited in all districts.
- E. All uses must comply with the use standards of Section 7.3, as applicable, as well as all other regulations of this Ordinance and the Village.

### 7.2 USE MATRIX AND RESTRICTIONS

- A. Table 7-1: Use Matrix identifies the principal uses allowed within each zoning district.
- B. P indicates that the use is permitted by-right in the district. S indicates that the use is a special use in the district and requires special use approval. If a cell is blank, the use is not allowed in the district.
- C. The following use restrictions apply:
  - 1. Large stables(defined in Article 2) are not allowed. Existing large stables are subject to the nonconformity provisions of Section 13.3
  - 2. Manufactured homes and manufactured home parks (defined in Article 2) are not allowed. Travel trailers are prohibited for use as a dwelling.
  - 3. Short-term rentals and bed and breakfasts (defined in Article 2) are not allowed.  
**Note the clarification that BnBs are also prohibited.**
  - 4. Kennels (defined in Article 2) are not allowed.

**THE REVISION OF THE USE STRUCTURE INTO THE FOLLOWING MATRIX RESOLVES THE ISSUES OF DEFINING COMMERCIAL AND RESIDENTIAL.**

**A "P" OR AN "S" IN RED BOLD FONT INDICATES A RECOMMENDED USE ALLOWANCE THAT WOULD ALIGN WITH THE INTENT OF THE DISTRICT - IN SOME CASES, THE USE HAS BEEN ADDRESSED IN THE PARKING STANDARDS BUT NOT LISTED UNDER THE DISTRICTS.**

**THE TC DISTRICT IS THE NEW DISTRICT PROPOSED IN ARTICLE 5 FOR THE TOLLWAY OASIS**

<b>Table 7-1: Use Matrix</b>							
<b>Uses</b>	<b>R-1</b>	<b>R-2</b>	<b>O/R</b>	<b>H</b>	<b>TC</b>	<b>OS</b>	<b>Use Standards</b>
<b>Residential</b>							
Dwelling - Single-Family	P	P					
Dwelling - Guest House	S						
<b>Commercial</b>							
Adult Use			P				Sec. 7.3.A
Art Gallery			S				
Arts and Fitness Studio			P	P			
Day Care Center			P	P			
Drive-Through Facility			S		P		
Financial Institution			S				
Gas Station			P		P		
Health Club			P	P			
Hotel				P			
Indoor Recreation			P	P			
Medical Cannabis Dispensing Facilities			S				
Medical/Dental Clinic			P				
Office			P	P			
Personal Services <b>New Use Category</b>			P	P	P		
Restaurant			P	P	P		
Retail Sales			P	P			
Vehicle Rental Establishment - Secondary Use				S			Sec. 7.3.D
<b>Industrial</b>							
Medical Cannabis Cultivation Facilities			S				
Office and Light Industrial Park			S				Sec. 7.3.B
Research & Development			P				
Showroom - No Outdoor Storage			P				
Warehouse			P				
Wind Energy Conversion System			S				Sec. 7.3.E
<b>Institutional/Assembly</b>							
Places of Public Assembly	S		P	P			Sec. 7.3.C
Educational Facility - Vocational/Trade			P				
Government Offices	S	S	P	P	P		
Radio/Television Towers - Transmitting & Receiving Equipment	S	S	S	S			
Wireless Facility, Small	S	S	P	P	P	P	
Wireless Telecommunications Facilities	S	S	S	S	S	S	Sec. 7.3.F
<b>Agricultural/Open Space</b>							
Agriculture	P						
Botanical Garden						P	
Forest Preserve						P	
Open Space - Public						P	

**7.3 USE STANDARDS**

Where applicable, all principal uses are required to comply with all use standards of this section, whether a permitted or special use, in addition to all other regulations of this Ordinance.

**A. Adult Uses**

1. No adult use is permitted within 500 feet of another existing adult use.
2. No adult use is permitted within 250 feet of any residential district.
3. No adult use is permitted within 250 feet of a place of public assembly.
4. No adult use may be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified anatomical areas or specified sexual activities from any public way. This applies to all displays, decorations, signs, show windows, and other openings.

**B. Office and Light Industrial Park**

1. Industrial facilities within an office and light industrial park must be conducted wholly within an enclosed building.
2. No outside storage is permitted.
3. Industrial uses must not produce any outside impacts.

**C. Places of Public Assembly**

**1. Dimensional Standards**

The following dimensional standards apply to places of public assembly. If any provisions of this section are inconsistent or in conflict with any other provision of this Ordinance, the provisions of this section control.

Dimensional Standard	Neighborhood Facility	Community Facility	Regional Facility
Minimum Lot Size	5 acres	20 acres	30 acres
Maximum Gross Floor Area	11,000sf	44,000sf	66,000sf
Maximum Cubic Feet of Building	433,600 cubic feet	1,500,400 cubic feet	2,400,600 cubic feet
Maximum Impervious Surface Coverage	40%	25%	20%

**2. Intensity of Use**

All public assembly special uses must be noncommercial operations that are operated on a not-for-profit basis and at least 50% of the total gross floor area of any building utilized as a place of public assembly must be non-assembly space.

**3. Circulation**

**a.** Traffic flow must be designed to ensure the least possible impact on neighboring properties and residential streets. To that end, a place of public assembly must:

- i. Be located adjacent to and take its access from and have egress to a major arterial street or a collector street as identified in the Comprehensive Plan of the Village of Mettawa.
- ii. Not be operated in an existing single-family residence.

**b.** The permittee and the owner of the proposed assembly use are responsible for all needed improvements to ensure safe traffic conditions are maintained and must provide a traffic study to demonstrate that this provision has been met.

**c.** Traffic management by uniformed persons authorized to direct traffic, such as police officers, must be provided by the permittee during peak traffic flows and at other times during which the Zoning Administrator finds that additional police presence will ensure safe ingress to and egress from the site of public assembly.

#### 4. Landscape

Adequate landscaping is required to ensure compatibility with the neighborhood. Where the Scenic Easement Overlay applies (Section 6.1), landscaping must be planted between the scenic easement and the closest assembly space sufficient to completely screen the latter from view of a six foot tall person standing at the closest point on the scenic easement to the assembly space.

#### 5. Exterior Illumination

- a. All outdoor lighting fixtures must reflect light downward and the face or globe of the fixtures must be recessed so as not to be visible from the view of a six foot tall person standing on the perimeter of the site.
- b. Exterior lighting cannot be located at a height greater than 15 feet and excessive brightness must be avoided.
- c. All exterior lighting fixtures are limited to a maximum illumination of 25 foot-candles and 0.1 foot-candle at the perimeter of the site or at the inside perimeter of any required screening, as the case may be.
- d. All exterior lighting must be designed to eliminate illumination one-half hour after the public assembly activities have been concluded each day.

#### 6. Conditions

In addition to the standards for special uses and the standards of this section, the Zoning, Planning, and Appeals Commission and/or the President and Board of Trustees may impose additional conditions create compatibility with the neighborhood but are the least burdensome to the assemblage use.

#### 7. Nonconformities

Any legal nonconforming or conforming existing place of public assembly established prior to December 19, 2006, cannot be altered or expanded in any manner, unless the alteration is necessary and part of the customary maintenance of the land and structures and does not intensify the existing use of the land and structures.

#### D. Vehicle Rental Establishment - Secondary

**Eliminated the current standard that says a max of five vehicles, but required them to be secondary to a hotel use. Do not allow for car wash and repair.**

1. Vehicle rental establishments are allowed only as a secondary use to a hotel.
2. Car wash and maintenance facilities for the automobiles are prohibited as part of vehicle rental establishments

#### E. Wind Energy Conversion Systems (WECS)

1. The maximum tower height is 60 feet measured from the grade surrounding the support pad(s) to the base of the wind generator of the WECS measured along the vertical axis of the tower.
2. The minimum tower setback distance from nearest property line is a distance measured from the mean grade surrounding the support pad(s) to the tip of a blade in vertical position measured along the vertical axis of the tower.
3. The minimum distance from guy wire to any given lot line is 75 feet.
4. The blade color must be white or light gray.
5. The tower must be made inaccessible to unauthorized personnel.
6. The application for a special use permit for WECS must be accompanied by the following documents in addition to other documents required by this Ordinance:
  - a. A site plan of the lot upon which the WECS is proposed to be located, prepared and stamped by an Illinois licensed land surveyor, indicating the location of the proposed WECS, existing and proposed structures, aboveground utility lines, and any other significant features or appurtenances.



(2) The costs for the investigation services in connection with such complaint of such electromagnetic interference must be paid by the complainant unless there is non-compliance with Federal Communications Commission Regulation 47 CFR 15, in which case the WECS owner must pay the costs.

iii. If electromagnetic interference is being caused by a WECS, the installation is deemed in violation of this section and the WECS is deemed a public nuisance, which must be abated within 90 days from the date of the report. If the electromagnetic interference cannot be remedied, the WECS must be removed.

c. If the WECS for any reason fails to generate power for one year or more, the Zoning Administrator must cause the owner thereof to remove the WECS within 90 days.

d. On the second anniversary of the issuance of the special use permit for the installation of any given WECS and every two years thereafter, the owner of such WECS must submit an Illinois licensed professional engineers' structural report to the Zoning Administrator certifying to the structural integrity of such WECS' wind generator, tower, and the entire support system.

## F. Wireless Telecommunications and Radio/Television Towers

### 1. Purpose and Interpretation

a. The purpose of these standards is to provide specific regulations for the placement, construction, and modification of wireless telecommunications facilities and radio/television towers. The provisions of this section are not intended and are not interpreted as prohibiting or having the effect of prohibiting the provision of personal wireless services, nor are these provisions to be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. If any provisions of this section are inconsistent or in conflict with any other provision of this Ordinance, the provisions of this section control.

b. In the course of reviewing any request for any approval, the Zoning, Planning, and Appeals Commission must act within a reasonable period of time after the request is duly filed with the Village Clerk, taking into account the nature and scope of the request. A recommendation to deny such a request must be in writing and supported by substantial evidence contained in a written record.

c. Should the application of this section have the effect of prohibiting a person or entity from providing personal wireless service or other telecommunications service to all or a portion of the Village, such provider may petition the President and Board of Trustees for an amendment to this section. The President and Board of Trustees, upon receipt of such a petition, must promptly undertake review of the petition and make a determination on the petition within a reasonable period of time, taking into account the nature and scope of the petition. A decision to deny such a petition must be in writing and supported by substantial evidence contained in a written record.

### 2. Small Wireless Facilities

Small wireless facilities are regulated by the Village Code in Chapter 5, Article VI.

### 3. Wireless Telecommunications Facilities and Radio/Television Towers as Accessory Uses

Wireless telecommunications facilities and radio/television towers are considered an accessory use when they meet all of the following standards and do not require a special use. All other wireless telecommunications facilities and radio/television towers are considered a special use.

a. Wireless telecommunications facilities and radio/television towers meet all minimum setback requirements of the district.

b. Wireless telecommunications facilities and radio/television towers meet all applicable federal laws and regulations.

c. Wireless telecommunications facilities and radio/television towers as an accessory use when either:

i. It is located in a wooded area and is camouflaged to appear to be a tree similar to other trees in such wooded area.

- ii. It is directly affixed to an existing building and the height of the radio and/or television tower and/or other transmitting and receiving equipment or personal wireless telecommunication facility does not exceed ten feet above the roof of an existing building, whether or not a roof-mounted antenna is used.

#### 4. Standards

##### a. Tower Height

FCC licensed wireless telecommunication towers and radio/television towers are limited to a maximum height of 60 feet. However, the applicant must demonstrate that tower height is the minimum required to provide satisfactory operation, which may be less than 60 feet.

##### b. Color

Towers and antenna support structures and antennas must have a finish color of non-contrasting black, blue, gray, or other color which minimizes the visibility of the antenna support structure.

##### c. Compatibility

Wireless telecommunications facilities and radio/television towers must be compatible architecturally with adjacent buildings and land uses or otherwise integrated, through location and design, to blend in with existing characteristics of the site to the extent practical. Site location and erection of towers and facilities must preserve the pre-existing character of the site as much as possible. Existing vegetation must be preserved or improved, and disturbance of the existing topography of the site must be minimized, unless such disturbance will result in less visual impact of the site upon the areas adjacent thereto.

##### d. Design

Towers must be constructed according to the then current standards of the Electronic Industries Association, the FAA, and the FCC.

##### e. Equipment Structures

All ground level equipment structures must comply with the requirements of the Mettawa Building Code, cannot exceed 300 square feet in floor area, or a height of 12 feet. Equipment structures must be screened by non-deciduous plantings from the view of persons of at least six feet in height who stand 100 feet from all adjacent lot lines.

##### f. Fencing

To prevent unauthorized access thereto and minimize any danger to persons, all towers and ground level equipment structures must be fenced from adjacent areas by a six foot high fence meeting the requirements of the Municipal Code of the Village of Mettawa of 2001.

##### g. Lights and Signs

Unless required by the FCC, all lights, signals, and/or signs of any kind are prohibited on any tower, antenna, and equipment.

##### h. Off-Street Parking

Paved off-street parking for at least two trucks is required a minimum of ten feet in width and 25 feet in length.

**We added a minimum size**

##### i. Tower Setbacks

All towers must be set back from all lot lines a distance equal to the height of the tower or the required setbacks of the district, whichever is greater.

#### 5. Prohibitions

a. No wireless telecommunication facilities and radio/television towers are allowed within the R-1 District that has been improved with a principal building. No variance or special use may be granted to allowed for a tower.

b. No public utility service use which satisfies the definition of wireless telecommunication facility is permitted in any zoning district in the Village unless it complies with all applicable federal laws and regulations concerning its use and operation.

## 6. Approvals

- a. In considering approval of wireless telecommunication facilities and radio/television towers, the Zoning, Planning, and Appeals Commission and the President and Board of Trustees must, in addition to the standards for a special use, apply the criteria and other standards of this section and also give due consideration and weight to whether:
- i. The plans submitted will provide for co-location of other antenna and equipment on the same support structure, so as to minimize the proliferation of antenna support structures.
  - ii. The applicant has sought and been denied the opportunity to co-locate its antenna(s) on an existing antenna support structure.
  - iii. The applicant has made adequate efforts but is unable to obtain a site for its facilities within the O/R District.
- b. The Zoning, Planning, and Appeals Commission and the President and Board of Trustees, may impose conditions that require that the applicant allow, on a commercially reasonable basis, other providers of telecommunications services to co-locate additional personal wireless service facilities on a free-standing pole which is part of the applicant's proposed towers and facilities, where such co-location is technologically feasible.

## 7.4 USE DEFINITIONS

All uses within Table 7-1 are defined in this section. Certain uses are defined to be inclusive of many uses. When a use meets a specific definition, it is regulated as such and is not regulated as part of a more inclusive use category.

**Adult Use.** Adult is defined as follows:

**Updated in line with case law**

1. **Adult Book or Adult Video Store.** An establishment having as a substantial or significant portion of its sales and/or stock in trade, books, magazines, films, and/or videos for sale or viewing on the premises by use of motion picture devices or any coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on material depicting, describing, or relating to specified anatomical areas or specified sexual activities, or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview, or coin operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's primary purpose is to purvey such material.
2. **Adult Entertainment Cabaret.** A public or private establishment which, live or on motion pictures, features any of the following:
  - a. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - b. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals.
  - c. The actual or simulated displaying of the breasts, pubic hair, anus, vulva or genitals.
  - d. Entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, the specified sexual activities set forth above.
3. **Adult Mini Motion Picture and/or Video Theater.** An enclosed building or an area within a building, having a capacity for less than 50 persons, and used for presenting motion picture films, video cassettes, cable television, and/or any other such visual media. All of such materials so presented distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.



**4. Adult Motion Picture Theater.** An enclosed building, or an area within a building, having a capacity of 50 or more persons, and used regularly and routinely for presenting motion picture films, video cassettes, cable television, and/or any other such visual media all of such materials so presented having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified anatomical areas or specified sexual activities for observation by patrons therein.

**5. Specified Anatomical Areas.** Less than completely and opaquely covered: human genitals and pubic region; buttock; and female breast below a point immediately above the top of the areola.

**Specified Sexual Activities.** Any of the following:

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse or sodomy.
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**Agriculture.** The growing of crops for commercial sale, personal food production, and/or donation. An agriculture use includes any associated single-family dwellings for the residents.

**Eliminated all reference to livestock - restricted to growing crops**

**Art Gallery.** An establishment that sells, loans and/or displays paintings, sculpture, photographs, video art, or other works of art. Art gallery does not include places of public assembly, such as a library or museum, which may also display paintings, sculpture, photographs, video art, or other works. **NEW**

**Arts and Fitness Studio.** An establishment where an art or activity is taught, studied, or practiced such as dance, martial arts, photography, music, painting, gymnastics, pilates, or yoga. An arts studio also includes private exercise studios for private sessions with trainers and/or private classes. Arts and fitness studio do not include health clubs and indoor recreation. **NEW**

**Botanical Garden.** An establishment where plants are grown for display to the public and often for scientific study. **NEW**

**Day Care Center.** A licensed facility where, for a portion of a day, care and supervision is provided for children or elderly and/or functionally-impaired adults in a protective setting that are not related to the owner or operator. Day care centers within a residential dwelling are prohibited. **NEW**

**Drive-Through Facility.** That portion of a business where business is transacted directly with customers via a service window that allows customers to remain in their vehicle. A drive through facility must be approved separately as a principal use when in conjunction with another principal uses such as restaurants and financial institutions. A standalone ATM is considered a drive-through facility for the purposes of this definition. **NEW**

**Dwelling - Single-Family.** A structure designed to contain one dwelling unit which is entirely surrounded by open area on the same lot and is not connected directly or indirectly to any other dwelling unit by roof, walls, porches, or any other means.

**Dwelling - Guest House.** A detached residence accessory to the principal building containing one dwelling unit that is used as living quarters for guests, none of whom pay rent, who are visiting persons who live in a separate principal building located upon the same lot.

**Renamed as "guest house" only; eliminated "servants quarters"**

**Educational Facility - Vocational/Trade.** A facility that offers instruction in industrial, clerical, computer, managerial, automotive, repair (electrical, plumbing, carpentry, etc.), or commercial skills, or a business conducted as a commercial enterprise, such as a school for general educational development. Educational facility - vocational also applies to privately operated schools that do not offer a complete educational curriculum. **NEW**

**Financial Institution.** A bank, savings and loan, credit union, or mortgage office. Financial institution does not include alternative financial services (AFS) are financial services provided outside a traditional banking institution. AFS includes payday loans, tax refund anticipation loans, car title loans, check cashing establishments, and currency exchanges.

**Added AFS restriction**

**Forest Preserve.** Designated open space owned and operated by the Lake County Forest Preserve District, and Parks owned and operated by the Village that preserves and protects natural features, wildlife, and critical environmental features, as well as sites of historical or cultural significance. A forest preserve may include opportunities for passive recreation, such as hiking trails and lookout structures, and environmental education.

**Revised**

**Gas Station.** A business where fuel for vehicles are stored and dispersed from fixed equipment into the fuel tanks of motor vehicles. This may also include ancillary retail uses, one automatic car wash facility (one stall), and solar and/or electric charging stations. **Revised**

**Government Office.** Offices owned, operated, or occupied by a governmental agency to provide a governmental service to the public, such as village and state offices and facilities.

**Health Club.** An establishment that provides health and fitness facilities such as running, jogging, aerobics, weight lifting, court sports, and swimming, and may include ancillary facilities such as locker rooms, showers, massage rooms, saunas, sales of related health equipment and clothing, juice bars, and other related uses. **NEW**

**Hotel.** A building where units with bedrooms and baths are offered for compensation to provide lodging for transient guests. A bed and breakfast or short term rental is not a hotel. **Revised**

**Indoor Recreation.** A facility for spectator and participatory uses conducted within an enclosed building, such as movie theaters, bowling alleys, escape room/physical adventure game facilities, and pool halls. Indoor amusement facilities do not include live performance venues. An indoor amusement facility may include uses such as, but not limited to, concession stands, restaurants, and retail sales as ancillary uses. **NEW**

**Medical Cannabis Cultivation Facilities.** A facility authorized by Illinois law and operated by an organization or business registered by the Department of Agriculture to grow, and/or cultivate, and/or perform necessary activities to provide registered medical cannabis dispensing organizations with usable medical cannabis, in accordance with all Illinois and Village statutes, ordinances, and regulations.

**Medical Cannabis Dispensing Facilities.** A facility authorized by Illinois law and operated by an organization or business registered by the Department of Financial and Professional Regulation to acquire, and/or sell, and/or dispense medical cannabis from a registered medical cannabis cultivation facility, in accordance with all Illinois and Village statutes, ordinances, and regulations.

**Medical/Dental Clinic.** A facility operated by one or more physicians, dentists, chiropractors, psychiatrists, physiotherapists, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis. Medical/dental offices also include alternative medicine clinics, such as acupuncture and holistic therapies, and physical therapy offices for physical rehabilitation. **NEW**

**Office.** An establishment that engages in the processing, manipulation, or application of business information or professional expertise. Such an office may or may not offer services to the public. An office is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor engaged in the repair of products or retail services. An office does not include financial institution or government office. **NEW**

**Office and Light Industrial Park.** Coordinated developments of office and light industrial uses with no outside impacts that are developed in campus-like environments, and typically with multiple buildings oriented around plazas or public spaces with a cohesive appearance. **NEW**

**We renamed this to add industrial as the standards for it allow for light industrial uses**

**Open Space.** Land and facilities that serve the recreational needs of residents and visitors. Open space includes, recreational facilities such as playgrounds, ballfields, athletic fields, basketball courts, tennis courts, dog parks, and passive recreation areas with hiking, bicycle, and horse trails. Public parks may also include non-commercial indoor recreation facilities. **NEW**

**Personal Services.** An establishment that provides frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty shops, barbershops, tanning salons, electronics repair shops, nail salons, laundromats, health clubs, dry cleaners, and tailors. **NEW**

**Places of Public Assembly.** Any land or building used for public assembly on a recurring basis, whether for educational, fraternal, governmental, religious or other purposes and includes neighborhood facilities, community facilities and/or regional facilities. Public assembly uses included uses such as places of worship, aquariums, libraries, museums, and schools.

1. **Neighborhood Facility.** A small establishment located to serve governmental, educational, and other needs of residents for public assemblies on a recurring basis within a convenient traveling distance and not intended to attract substantial numbers of persons from outside the neighborhood.
2. **Community Facility.** A mid-size establishment located to serve the needs of residents and visitors for public assemblies which, due to the characteristics of its size and location and corresponding frequency of trip generations, may create a heavy traffic impact in the neighborhood wherein it is located.
3. **Regional Facility.** A large-size establishment located to serve the needs of persons for public assemblies which require large land areas and may have single-purpose characteristics creating a heavy traffic impact and intended to attract substantial numbers of persons from outside the corporate limits of the Village.

**Radio/Television Towers - Transmitting & Receiving Equipment.** Towers used for broadcasting and information relay services for radio and television signals.

**Research and Development.** A facility where research and development is conducted in industries that include, but are not limited to, biotechnology, pharmaceuticals, medical instrumentation or supplies, communication, and information technology, electronics and instrumentation, and computer hardware and software. Research and development does not involve the manufacture, fabrication, processing, or sale of products. **NEW**

**Restaurant.** An establishment where food and/or beverages are provided to the public, which may be offered for on-premises consumption by seated patrons, delivery, carry-out, or a combination of such. **NEW**

**Retail Sales.** A commercial enterprise that provides physical goods, products or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A retail goods establishment does not include auction houses, antique shops, consignment shops, or secondhand goods dealer, each of which are defined separately.

**Showroom.** An establishment where products are displayed for sale, such as furniture, appliances, carpet, tile, or furnishings. Products are available for purchase but are not manufactured on site and typically not available for immediate removal from the premises and are rather delivered to the purchaser. **NEW**

**Vehicle Rental Establishment - Secondary.** An establishment that rents automobiles, including incidental parking and servicing of rental vehicles. Vehicle rental establishment does not include truck rental establishments or rental of heavy equipment. As a secondary use, it may not be a standalone establishment and must be part of another principal use on the site as regulated by the use standards. **NEW**

**Wind Energy Conversion System (WECS).** Mechanisms, including all appurtenances thereto, designed or operated for the purpose of converting wind energy to electrical or mechanical powers.

**Wireless Facility, Small.** A wireless telecommunications facility that meets both of the following qualifications: 1) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and 2) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

**Wireless Telecommunications.** Towers, antennas, and facilities used to transmit and receive signals that facilitate wireless telecommunications. The following definitions describe the wireless telecommunications infrastructure described within the general definition for wireless telecommunications: **NEW**

1. **Antenna.** A specific device, the surface of which is used to transmit and/or receive signals transmitted to or from other antennas. This does not include satellite dish antennae.

**2. Facility.** A structure used to house and protect the equipment necessary for processing telecommunications signals, which may include air conditioning equipment and emergency generators. Facility also includes any necessary equipment that facilitates wireless transmission.

**3. Tower.** A structure designed and constructed to support one or more wireless telecommunications antennae and including all appurtenant devices attached to it.

## Article 8. On-Site Development Standards

- 8.1 GENERAL REQUIREMENTS
- 8.2 ACCESSORY STRUCTURES AND USES
- 8.3 PERMITTED ENCROACHMENTS
- 8.4 TEMPORARY USES
- 8.5 PERFORMANCE STANDARDS

### 8.1 GENERAL REQUIREMENTS

This is standard ordinance language

- A. No structure may be erected, converted, enlarged, reconstructed or altered, except in conformity with the regulations of the district in which the structure is located.
- B. In the commercial districts and the OS District, there may be more than one principal building on a lot. All structures must comply with all dimensional standards of the zoning district.
- C. Required open space:
  - 1. All yards and other open spaces allocated to a building or planned unit development must be located on the same lot as such building.
  - 2. No legally required yards or other open space or minimum lot area allocated to any building may by virtue of change of ownership or for any other reason be used to satisfy yard or other open space or minimum lot area requirements for any other building or development on a contiguous lot or parcel.
  - 3. The maintenance of yards, courts, and other open spaces and minimum lot area legally required for a building are a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence.
- D. No structure can exceed a height of three feet above the street grade within 25 feet of the centerlines of the intersecting street lines bordering corner lots.
- E. The Lake County Watershed Development Ordinance, as most recently amended by Lake County, is hereby adopted by reference and is in full force and effect within the Village of Mettawa and is found in its own compilation.
- F. All signs must be in conformance with Chapter 10 of the Village Code

### 8.2 ACCESSORY STRUCTURES AND USES

All accessory structures and uses are subject to the requirements of this section and the permitted encroachment requirements of Section 8.3. Additional accessory structures not regulated in this section may be regulated in Section 8.3.

#### A. General Regulations

- 1. No accessory structure may be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
- 2. The total floor area of all detached accessory structures on a lot in the residential districts is limited as follows:
  - a. In the R-1 District, no more than 3% of the total lot area.
  - b. In the R-2 District, no more than 5% of the total lot area.
- 3. The total floor area of all detached accessory structures on a lot in the nonresidential districts are subject to the maximum coverage limitation of the district.
- 4. Any detached accessory structure that has a gross floor area of more than 2,000 square feet requires a special use permit.

5. The maximum height of any accessory structure is 30 feet, unless otherwise permitted or restricted by this Ordinance.

#### **B. Amateur (HAM) Radio Equipment**

##### **NEW**

1. Towers that solely support amateur (HAM) radio equipment and conform to all applicable performance criteria as set forth in Section 8.5 below are permitted only in the rear yard, and must be located 20 feet from any lot line and any principal building. Tower height is permitted by-right to the maximum building height of the district, unless a taller tower is necessary to engage successfully in amateur radio communications. When a tower exceeds the district height limit, special use approval is required.
2. Antennas may be building-mounted and are limited to a maximum height of ten feet above the structure, unless a taller antenna is necessary to engage successfully in amateur radio communications. When an antenna exceeds the district height limit, special use approval is required.
4. When an antenna or tower is proposed to exceed the height limitations, the operator must provide evidence that a taller tower and/or antenna is necessary to engage successfully in amateur radio communications. In addition, the applicant must provide evidence that the tower and/or antenna will not prove a hazard and that it conforms to all applicable performance criteria of Section 8.5. As part of the special use application, the applicant must submit a site plan showing the proposed location of the tower or antenna, as well as its relation to the principal building and accessory structures.

#### **C. Carport**

##### **NEW**

1. Carports must be located over a paved surface and accessed by a driveway.
2. A carport is permitted only in the interior side, corner side, or rear yard.
3. Carports must meet the corner side setback, and must be located 20 feet from a lot line in the interior side or rear yard. No carport may be located in front of the front building line.
4. The total length of a carport is limited to 22 feet. The height of a carport is limited to 20 feet.
5. A carport must be open on at least three sides except for the necessary supporting columns and customary architectural features.
6. A carport must be constructed as a permanent structure. Temporary tent structures are not considered carports.

#### **D. Coldframe Structures**

##### **NEW**

1. Coldframe structures are permitted in the interior side, corner side, and rear yards and must be 20 feet from any lot line.
2. Coldframe structures are limited to six feet in height.
3. Coldframe structures are limited to a maximum square footage of 120 square feet.

#### **E. Electric Vehicle Charging Station**

##### **NEW**

1. Public commercial electric vehicle charging stations are permitted as an accessory use within any public parking lot, public parking structure, or gas station in non-residential districts.
2. Each public charging station space must be posted with a sign indicating the space is only for electric vehicle charging purposes. Days and hour of operations must be included if time limits of tow away provisions are to be enforced by the owner. Information identifying voltage and amperage levels or safety information must be posted.

3. Charging station equipment must be maintained in good condition and all equipment must be functional. Charging stations no longer in use must be immediately removed.

## F. Exterior Lighting

**NEW**

### 1. Maximum Lighting Regulations

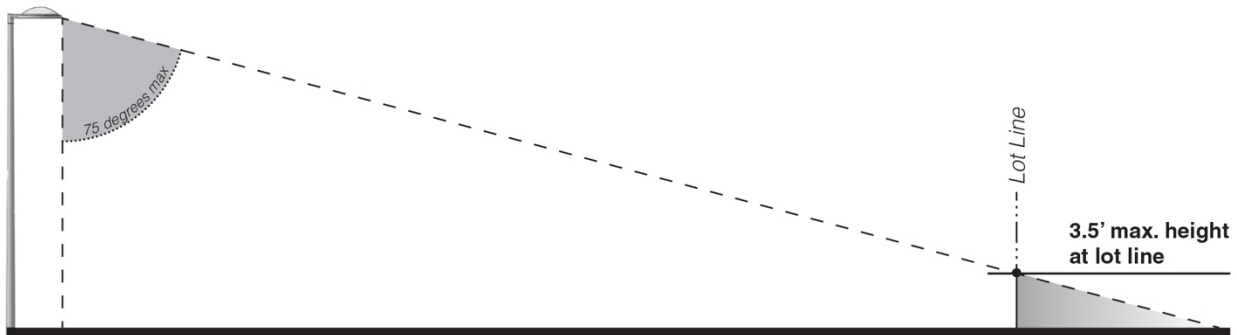
- a. The maximum allowable footcandle at the lot line is one footcandle in commercial districts and 0.5 footcandle in residential districts.
- b. When additional security lighting is required for security reasons in excess of the footcandle limit imposed by item a above, additional lighting may be allowed with a special use approval.
- c. No glare onto adjacent properties is permitted.

### 2. Freestanding Luminaire Standards

#### a. Cut Off Standards

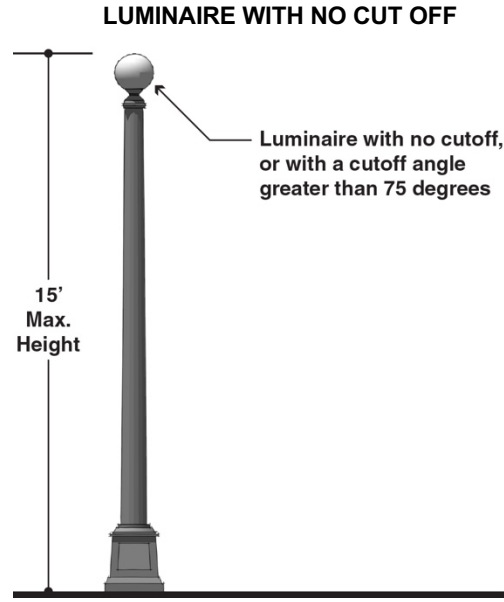
- i. To be considered a cut off luminaire, the cut off angle must be 75 degrees or less.
- ii. The maximum total height of a freestanding cut off luminaire is 20 feet.
- iii. A cut off luminaire must be designed to completely shield the light source from an observer 3.5 feet above the ground at any point along an abutting lot line.

#### LUMINAIRE WITH CUT OFF



#### b. No Cut Off Standards

- i. A luminaire is considered to have no cut off if it is unshielded or has a cut off angle greater than 75 degrees.
- ii. The maximum permitted total height of a freestanding luminaire with no cut off is 12 feet.



### 3. Exceptions to Lighting Standards

- a. Luminaires used for public roadway illumination are not controlled by this Ordinance.
- b. All temporary emergency lighting required by public safety agencies, other emergency services, or construction are exempt from the requirements of this Ordinance.
- c. Holiday and seasonal lighting designs are not subject to the requirements of this Ordinance.
- d. Certain temporary uses may use lighting that does not meet the requirements of this section. When such temporary uses are allowed, approval of lighting design is part of the temporary use approval.

### 4. Prohibited Lighting

- a. Flickering or flashing lights are prohibited.
- b. Searchlights, spotlights, laser source lights, or any similar high intensity lights are prohibited.
- c. Neon or LED lighting to outline doors, windows, architectural features, and building facades is prohibited.

### G. Fences and Walls

All fences and walls must be in conformance with Chapter 9 of the Village Code.

### H. Home Occupations

**This has been updated to reflect more modern controls**

1. The home occupation must be conducted by the occupant or occupants residing in the dwelling. No outside employees are permitted.
2. Home occupations are permitted in any dwelling unit as an accessory use provided that this use is clearly incidental and secondary to the primary use of the dwelling for residential purposes and does not change the character of the dwelling unit or adversely affect the surrounding residential district of which it is a part.
3. A home occupation may be conducted in a detached accessory structure, however any required parking spaces that may be located within such detached accessory structure must be maintained as parking spaces.



4. Home occupations of an office or service-related businesses with client visits are limited to one client at a time per home occupation in the structure. Such client visits must be by appointment only.
  - a. For purposes of this section, client means one or more persons meeting with the home occupation owner for the office or service-related business home occupation at an appointed time.
  - b. For the purposes of this section, client does not mean regular meetings of sales associates or a similar category of employee.
5. No alteration of the principal building may be made that changes the residential character of that dwelling. Displays or activities that indicate from the exterior that the structure is being used, in part, for any purpose other than that of a residence are prohibited.
6. No commodities can be sold or services rendered that require receipt or delivery of merchandise, goods, or equipment other than by a passenger motor vehicle or by parcel or letter carrier mail services using vehicles typically employed in residential deliveries.
7. The home occupation and all related activity, including storage, must be conducted completely within the principal building or a permitted accessory structure.
8. No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted and/or hazardous materials may be used or stored on the site. There must be no perceptible noise, odor, smoke, electrical interference, vibration, or other nuisance emanating from the structure where the home occupation is located in excess of that normally associated with residential use.
9. The home occupation cannot create greater vehicular or pedestrian traffic than is average for a residential area. The home occupation and any related activity must not create any traffic hazards or nuisances in public rights-of-way.
10. The following are prohibited as part of a home occupation:
  - a. All home occupations are subject to the restrictions on commercial vehicles of Section 9.6.A. The storage of any heavy equipment, such as construction equipment used in a commercial business, is also prohibited.
  - b. Day care homes are prohibited as a home occupation.
  - c. Repair and service of any vehicles or any type of machinery, small or heavy, is prohibited.
  - d. Rental services, where any materials for rent are stored on-site and customers visit the residence to pick-up and return the product, is prohibited
  - e. The business of firearm transfers is prohibited.
  - f. Kennels are prohibited as a home occupation.

## **I. Mechanical Equipment**

### **NEW**

Mechanical equipment includes heating, ventilation, and air conditioning (HVAC) equipment, electrical generators, and similar equipment. These requirements do not apply to window air conditioning units or satellite dishes. These regulations do not apply to window air conditioning units.

#### **1. Ground-Mounted Equipment**

- a. Mechanical equipment is permitted in the interior side or rear yard only. No mechanical equipment is allowed in a required setback.
- b. Ground-mounted mechanical equipment in the interior side yard, if visible from the street, must be screened from view by a decorative wall, solid fence, or landscaping that is compatible with the architecture and landscape of a development site. The wall, fence, or plantings must be of a height equal to or greater than the height of the mechanical equipment being screened.

## 2. Roof-Mounted Equipment

For roof-mounted equipment, there must be either a parapet wall to screen the equipment or the equipment must be housed in solid building material that is architecturally integrated with the structure.

## J. Refuse Containers and Dumpsters

### Updated

1. Residential refuse containers are prohibited in the front yard. For those stored outdoors in an interior side or corner side yard, refuse containers must be stored within an enclosure comprised of a sight-proof screen composed of non-deciduous planting or a solid fence or wall.
2. Dumpsters for non-residential uses are prohibited in the front or corner side yard. No dumpsters may be located on any right-of-way. Enclosures are required for dumpsters, constructed as follows:

### New provision

- a. All refuse and recycling containers must be fully enclosed on three sides by a solid fence, wall, or wall extension of the principal building a minimum of six feet and a maximum of seven feet in height. The wall or wall extension must be constructed as an integral part of the building's architectural design
  - b. The enclosure must be gated. Such gate must be solid and a minimum of six feet and a maximum of seven feet in height. The gate must be maintained in good working order and must remain locked except when refuse/recycling pick-ups occur.
  - c. Refuse and recycling containers must remain in the enclosure with the gate closed and/or locked.
3. Refuse from building or construction operations must be disposed of in dumpsters. Such dumpsters cannot be located across public curbs or parkways. Dumpsters are not allowed to stand unused at any site for longer than 30 days. Overflow within dumpsters is prohibited.

## K. Satellite Dish Antennas

### NEW

### 1. General Requirements

- a. Satellite dish antennas must be permanently installed on a building, in the ground, or on a foundation, and cannot be mounted on a portable or movable structure.
- b. Subject to operational requirements, the dish color must be of a neutral color, such as white or grey. No additional signs or advertising is permitted on the satellite dish itself, aside from the logos of the satellite dish service provider and/or dish manufacturer.
- c. Antennas no longer in use must be immediately removed.
- d. Satellite dish antennas must be installed in locations that are not readily visible from neighboring properties or from the public right-of-way.

### 2. Additional Standards for Large Satellite Dish Antennas

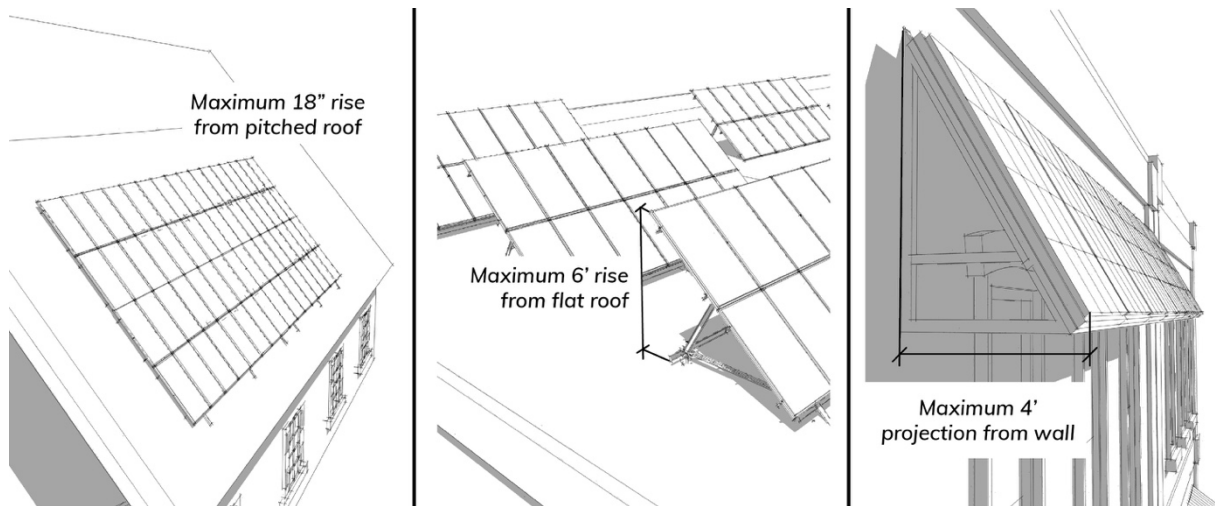
Large satellite dish antennas, which are greater than one meter (3.28 feet) in diameter, are subject to the general requirements above as well as the following requirements:

- a. Large satellite dish antenna are permitted only in the rear yard and must meet all required setbacks.
- b. Roof-mounting is permitted only if the satellite dish antenna is entirely screened from public view along the right-of-way by an architectural feature.
- c. A large satellite dish antenna must be located and screened so that it cannot be readily seen from public rights-of-way or adjacent properties. Screening includes a solid fence or wall or non-deciduous planting located to conceal the antenna and its support structure. Plants must be a minimum of five feet tall at the time of installation.

**L. Solar Panels**  
**NEW**

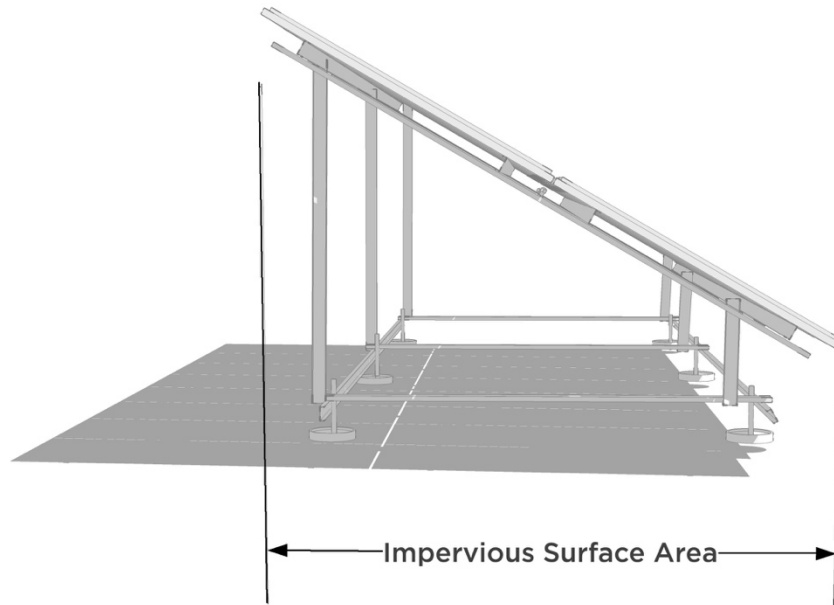
1. Solar panels may be building-mounted or freestanding, subject to the regulations of this section.
2. Solar panels must be placed so that concentrated solar radiation or glare is not directed onto nearby properties or roadways.
3. A building-mounted system may be mounted on the roof or wall of a principal building or accessory structure.
  - a. On pitched roof buildings, the maximum height a roof-mounted solar panel may rise is 18 inches.
  - b. On flat roofed buildings, the roof-mounted solar panel system is limited to a maximum height of six feet above the surface of the roof. Roof-mounted solar energy systems are excluded from the calculation of building height.
  - c. Wall-mounted solar panels may project up to four feet from a building façade and must be integrated into the structure as an architectural feature. Wall-mounted panels cannot encroach more than three feet into a required setback.

**BUILDING-MOUNTED SOLAR PANELS**



4. A freestanding solar energy system is permitted in the rear yard only and must meet the following standards:
  - a. A freestanding solar energy system cannot be located in any required setback.
  - b. The system is limited to a maximum of 30 feet in height, measured to the highest point of the structure including the solar panel.
  - c. Only the area directly beneath the solar panel is counted toward total impervious surface coverage.

**GROUND-MOUNTED SOLAR PANELS**



**M. Recreational Court (Private)**  
**NEW**

1. The recreational court is intended and is used solely for the enjoyment of the occupants of the property on which it is located and their guests.
2. A recreational court is permitted only in the rear yard and must meet all setback requirements of the district.

**8.3 PERMITTED ENCROACHMENTS**

An encroachment is the extension or placement of an accessory structure or architectural feature into a required setback. Permitted encroachments are indicated in Table 8-1: Permitted Encroachments into Required Setbacks. Section 8.2 contains regulations on additional accessory structures and architectural features not listed in Table 8-1, which may include additional permissions or restrictions for their permitted encroachment into required setbacks.

Table 8-1: Permitted Encroachments Into Required Setbacks				
Y= Permitted // N= Prohibited				
Max. = Maximum // Min. = Minimum				
	Front Setback	Corner Side Setback	Interior Side Setback	Rear Setback
Accessibility Ramp	Y	Y	Y	Y
Air Conditioner Window Unit <i>Max. projection of 18" from building wall</i>	Y	Y	Y	Y
Arbor, Trellis - Attached	Y	Y	Y	Y
Arbor, Trellis - Detached	N	N	N	Y
Awning or Sunshade <i>Max. of 3' into setback</i>	Y	Y	Y	Y
Bay Window <i>Max. of 5' into any setback</i> <i>Min. of 24" above ground</i>	N	Y	Y	Y
Chimney <i>Max. of 18" into setback</i>	Y	Y	Y	Y
Eaves <i>Max. of 3' into setback</i>	Y	Y	Y	Y

Table 8-1: Permitted Encroachments Into Required Setbacks Y= Permitted // N= Prohibited Max. = Maximum // Min. = Minimum				
	Front Setback	Corner Side Setback	Interior Side Setback	Rear Setback
Flagpole <i>Max. height of 40'</i> <i>Min. of 20' from any lot line</i>	Y	Y	N	Y
Lawn Decorations, Exterior Lighting	Y	Y	Y	Y
Playground Equipment <i>Prohibited in front of front building line</i> <i>Min. of 20' from any lot line</i>	N	N	N	Y
Porch - Unenclosed <i>Max. of 5' into front or corner side setback</i> <i>(Enclosed porches are considered part of the principal structure)</i>	Y	Y	N	N
Retaining Wall <i>Min. of 5' from any lot line</i>	Y	Y	Y	Y
Sills, belt course, cornices, and ornamental features <i>Max. of 3' into setback</i>	Y	Y	Y	Y
Steps & Stoops <i>Max. of 4' into setback</i>	Y	Y	Y	N

## 8.4 TEMPORARY USES

### THIS SECTION AND THE ASSOCIATED TEMPORARY USE PERMIT IS ALL NEW

#### A. Temporary Use Permit

##### 1. Purpose

A temporary use permit allows for the short-term use and/or placement of structures on a lot. The temporary use permit regulates temporary uses that occur entirely on and within a lot. Temporary uses located within the public right-of-way are not regulated by this section. Temporary uses cannot include the construction or alteration of a permanent structure.

##### 2. Initiation

A property owner, or person expressly authorized in writing by the property owner, may initiate a temporary use permit application.

##### 3. Authority

The Zoning Administrator will review and make final decisions on temporary use permit applications.

##### 4. Procedure

All applications for temporary use permit must be filed with the Zoning Administrator. The Zoning Administrator will render a decision on the temporary use permit within 30 days of the date the application is deemed complete. The Zoning Administrator must review and evaluate the application, pursuant to the standards of this section, and approve, approve with conditions, or deny the application.

##### 5. Expiration

The temporary use permit is valid only for the time period granted as part of the approval.

#### B. General Standards

All temporary uses must be evaluated against the following standards, as well as any standards specific to the temporary use per item C below:

1. The temporary use does not cause, or threaten to cause, an on-site or off-site threat to the public health, safety, and welfare.
2. If required by the Village, the operator of the temporary use must employ appropriate security personnel.

3. The temporary use does not conflict with another previously authorized temporary use.
4. The temporary use provides adequate parking if needed. If located on a lot with an operational principal use, does not impact the parking and site circulation of the principal use.

**C. Permitted Temporary Uses**

The following temporary uses are permitted subject to the standards for each and the standards of item B above. A temporary use permit is required unless the standards specifically state otherwise.

**1. Residential Real Estate Development Sales Office and Model Unit**

**a. Model Home**

- i. The model home must be associated with the sale or rental of homes within the development in which it is located.
- ii. A model home must be closed after 90% of the lots or units are sold and/or rented.

**b. Residential Real Estate Development Sales Office**

- i. A development is limited to one temporary stand-alone real estate sales office, which cannot exceed 1,000 square feet in gross floor area and cannot be located in any required setback.
- ii. All standalone real estate sales offices must be closed and removed within 30 days after the sale or rental of the last unit of the development.

**2. Temporary Contractor's Office and Contractor's Yard**

- a. A temporary contractor's office is allowed incidental to a construction project and must be located upon the same lot as the construction project.
- b. The temporary contractor's office must be removed within 30 days of completion of the construction project.

**3. Temporary Outdoor Entertainment - Public Events**

- a. Temporary outdoor entertainment - public event is permitted in association with a place of public assembly in the residential district, and in association with any use in the commercial districts and OS District.
- b. A management plan is required as part of the temporary use permit application that demonstrates the following:
  - i. The on-site presence of a manager during the event.
  - ii. General layout of performance areas, visitor facilities, such as any seating areas and restrooms, parking areas, and all ingress and egress points to the site.
  - iii. Provision for waste removal and for recycling, if available.
  - iv. The days and hours of operation, including set-up and take-down times.
  - v. A description of crowd control and security measures, including noise control measures.
  - vi. A lighting plan describing all temporary lighting to be installed.
- c. Any temporary structures must be removed within three days of conclusion of the event.
- d. Events are limited to three events per calendar year and a maximum duration of two days per event, with a minimum of 30 days between events. This limitation applies to the lot, not the operator of the temporary use.

**4. Temporary Outdoor Storage Container**

- a. Temporary storage containers are permitted in any zoning district when used for loading or unloading of the property located on the site. Containers are permitted on site for a period not to exceed ten days with no temporary use permit. If a longer time period is required, a temporary use permit is required and the timeframe will be determined as part of the temporary use permit approval. There must be a minimum of 30 days between periods of a temporary storage container placed on-site.
- b. Temporary storage containers may not be used for permanent storage. They may not serve as a substitute for permanent storage needs on the site on which they are located. Containers may not be permanently attached to the ground, serviced with permanent utilities, or stacked on the site.
- c. Temporary storage containers cannot be placed in the public right-of-way or placed on a lot to block ingress/egress or impede right-of-way traffic.
- d. Temporary storage containers for residential uses may be placed in a driveway only but cannot block the right-of-way, including sidewalks. No temporary storage containers may be placed within any yard.

## 8.5 PERFORMANCE STANDARDS

All uses must comply with the performance standards established in this section unless any federal, state, or local law, ordinance, or regulation establishes a more restrictive standard, in which case, the more restrictive standard applies.

### THESE ARE SIMPLIFIED VERISONS OF THE CURRENT COMPLICATED STANDARDS A more comprehensive nuisance ordinance outside of zoning may be required

#### A. Noise

No activity or use can be conducted in a manner that generates a level of sound that violates Village nuisance ordinances related to noise.

#### B. Glare and Heat

Any activity or the operation of any use that produces glare or heat must be conducted so that no glare or heat from the activity or operation is detectable at any point off the lot on which the use is located. Flickering or intense sources of light must be controlled or shielded so as not to cause a nuisance across lot lines.

#### C. Vibration

No earthborne vibration from the operation of any use may be detectable at any point off the lot on which the use is located.

#### D. Dust and Air Pollution

Dust and other types of air pollution, borne by the wind from sources, such as storage areas, yards, roads, conveying equipment and the like, within lot boundaries, must be kept to a minimum by appropriate landscape, screening, sheltering, paving, fencing, wetting, collecting, or other acceptable means.

#### F. Discharge and Disposal of Radioactive and Hazardous Waste

The discharge of fluid and the disposal of solid radioactive and hazardous waste materials must comply with applicable federal, state, and local laws, and regulations governing such materials or waste. Radioactive and hazardous material waste must be transported, stored, and used in conformance with all applicable federal, state, and local laws.

#### G. Electromagnetic Interference

Electromagnetic interference from any operation of any use must not adversely affect the operation of any equipment located off the lot on which such interference originates.

**H. Odors**

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the public health and welfare, or which interferes unreasonably with the comfort of the public, must be removed, stopped, or modified so as to remove the odor.

**I. Fire and Explosion Hazards**

Materials that present potential fire and explosion hazards must be transported, stored, and used only in conformance with all applicable federal, state, and local regulations.



## Article 9. Off-Street Parking and Loading

- 9.1 GENERAL PROVISIONS
- 9.2 LOCATION OF PARKING SPACES
- 9.3 OFF-STREET PARKING SPACE AND PARKING FACILITY DESIGN STANDARDS
- 9.4 REQUIRED OFF-STREET VEHICLE SPACES
- 9.5 REQUIRED OFF-STREET LOADING SPACES
- 9.6 COMMERCIAL AND RECREATIONAL VEHICLE STORAGE

### 9.1 GENERAL PROVISIONS

#### Updated standards

#### A. Existing Parking Facilities

Existing off-street parking and loading areas that do not conform to the requirements of this Ordinance, but were in conformance with the requirements of this Ordinance at the time the parking or loading facilities were established, are permitted to continue as a nonconforming site element. However, the existing number of off-street parking and loading spaces may not be reduced below the requirements of this Ordinance and if the number of such existing spaces is already less than required, it may not be further reduced.

#### B. Prior Approved Building Permits

If a building permit for a structure was issued prior to the effective date of this Ordinance or any amendment thereto, and if construction has begun within one year of the issuance of the permit, the number of off-street parking and loading spaces must be provided in the amount required at the issuance of the building permit, unless the amount required by this Ordinance or any amendment is less, in which case the number required by this Ordinance or amendment must be installed.

#### C. Change in Use or Intensity

##### 1. Change in Use

When the existing use of a structure or land is changed to a new use, parking and loading spaces must be provided as required for the new use.

##### 2. Change in Intensity of Use

When the intensity of use of any structure or land is increased through additions, expansions, or any increase in floor area or dwelling units, additional parking and loading spaces must be provided as required herein. When the intensity of use of any structure or land is decreased by the loss of floor area or dwelling units, the number of parking and loading spaces may be reduced so long as the parking requirements of this Ordinance are met for the structure or land as modified.

#### D. Provision of Additional Spaces

Nothing in this Ordinance prevents the voluntary establishment of additional off-street parking or loading facilities, provided that all regulations governing the location, design, and construction of such facilities are met.

#### E. Completion of Off-Street Parking and Loading Facilities

All off-street parking and loading facilities must be completed prior to the issuance of the certificate of occupancy for the use.

#### F. Use of Parking Facilities

1. The sale or display for sale of any good, vehicles, equipment, materials, or supplies, and the servicing and repair of any goods, vehicles, equipment, materials, or supplies in off-street parking facilities is prohibited.

2. The property owner is responsible for ensuring that parking facilities and loading areas are only used by tenants, employees, visitors, and/or other authorized persons.

3. Space allocated to any off-street loading space may not be used to satisfy the requirement for any off-street vehicle parking space or access aisle or portion thereof. Conversely, the area allocated to any off-street vehicle parking space may not be used to satisfy the replacement for any off-street loading space or portion thereof.

4. Off-street parking for a residential use must be used for the parking of vehicles owned by the occupants of the dwelling and their guests.

**G. Parking Facility Plot Plans**

Any application for a building permit or for a certificate of occupancy, when no building permit is required, must include a plot plan, drawn to scale and fully dimensioned, showing all parking facilities and/or loading areas to be provided in compliance with this Article.

**9.2 LOCATION OF PARKING SPACES**

**New provision - this better reflects the development environment of Mettawa.**

All required parking spaces must be located on the same lot as the use served.

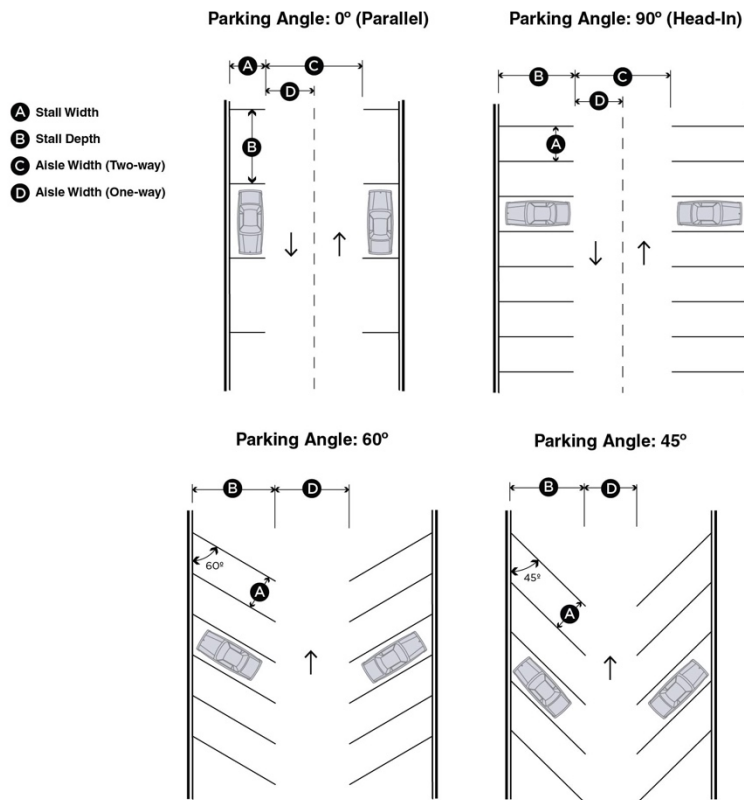
**9.3 OFF-STREET PARKING SPACE AND PARKING FACILITY DESIGN STANDARDS**

**A. Dimensions**

Off-street parking facilities must meet the minimum dimensions for parking spaces and drive aisles in Table 9-1: Off-Street Parking Space Minimum Dimensions.

**This is a new table that shows a set of common standards for parking configurations**

Figure 9-1: Off-Street Parking Space Minimum Dimensions					
Parking Angle	Stall Width (A)	Stall Depth (B)	Aisle Width Two-Way (C)	Aisle Width One-Way (D)	Vertical Clearance
0° (Parallel)	9'	20'	22'	12'	7'6"
90° (Head-In)	9'	18'	22'	22'	7'6"
60°	9'	21'	N/A	18'	7'6"
45°	9'	17'	N/A	12'	7'6"



## B. Parking Lot Siting

Parking lots are prohibited with the require front and corner side setbacks. No parking lots may be located within 30 feet of the interior side and/or rear lot line. No parking structures may be located within a required setback.

**The above is a revision of the current site plan standard - for reference:**

***No parking facilities may be located within 120 feet of the front or corner side lot line, within 30 feet of the rear lot line, and within 30 feet of the side property line. During site plan review, the Village Board may modify these siting requirements.***

## C. Access

### 1. Parking for Commercial Uses

- a. Each off-street parking space must open directly upon an aisle or driveway as per Table 9-1 to provide safe and efficient means of vehicular access to such parking space. **NEW**
- b. All off-street parking facilities must be designed with appropriate means of vehicular access to a street in a manner which will least interfere with traffic movements. **NEW**
- c. Parking facilities must be designed to allow the driver to proceed forward into traffic, rather than back out. **NEW**
- d. No commercial curb cut can exceed a width of 40 feet. **Current standard - simplified language**
- e. Cross-access to parking areas are prohibited between a commercial lot and a residential lot. **Current standard - simplified language**
- f. Dead end parking lots without a turnaround space are prohibited. A turnaround space must have a minimum depth and width of nine feet, and must be designated with signs stating "No Parking" and painted to indicate parking is prohibited. **NEW**

### 2. Parking for Residential Uses

- a. A residential lot is limited to a maximum of two curb cuts. **Current standard - simplified language**
- b. No residential curb cut can exceed a width of 22 feet. **NEW**

## D. Surfacing

For parking facilities, all materials and construction, including earthwork, must be in accordance with "Standard Specifications for Road and Bridge Construction," the Illinois Department of Transportation, latest edition and revisions, and the requirements of the Village. All off-street parking lots and driveways must be improved with an all-weather dustless material consisting of either:

1. Portland cement concrete pavement not less than six inches thick
2. A minimum of:
  - a. Class I Type 2, and 1 1/2" Bituminous Concrete Surface Course Class I Type 2; or 10" Aggregate Base Course Type B CA-6, 2" Bituminous Concrete Binder Course
  - b. 6" Bituminous base course (BAM) and 2" Bituminous Concrete Surface Course Class I Type 2.  
Additional thickness must be provided in truck aisles.

## E. Striping

**NEW**

1. Off-street parking facilities of five or more spaces must delineate parking spaces with paint or other permanent materials, which must be maintained in clearly visible condition.
2. Accessible spaces must be in accordance with the Illinois Accessibility Code, as amended, and any additional governing codes and applicable laws.

## F. Curbing

### NEW

Curbing is required when a parking space within a parking facility abuts a pedestrian walkway, landscape, structure, or fence. Breaks in curbing may be provided to allow for drainage into landscape areas that can absorb water. Such curbing must be constructed of permanent materials, such as concrete or masonry, a minimum height of four inches above ground level, and permanently affixed to the paved parking area. Wheel stops are prohibited.

## G. Landscape

All parking lots must be landscaped in accordance with Article 10.

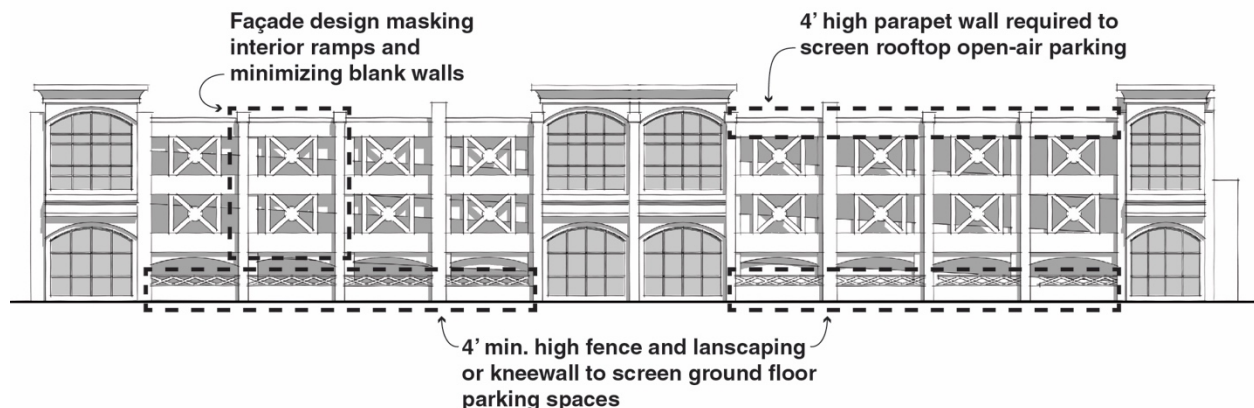
## H. Parking Structure

### NEW

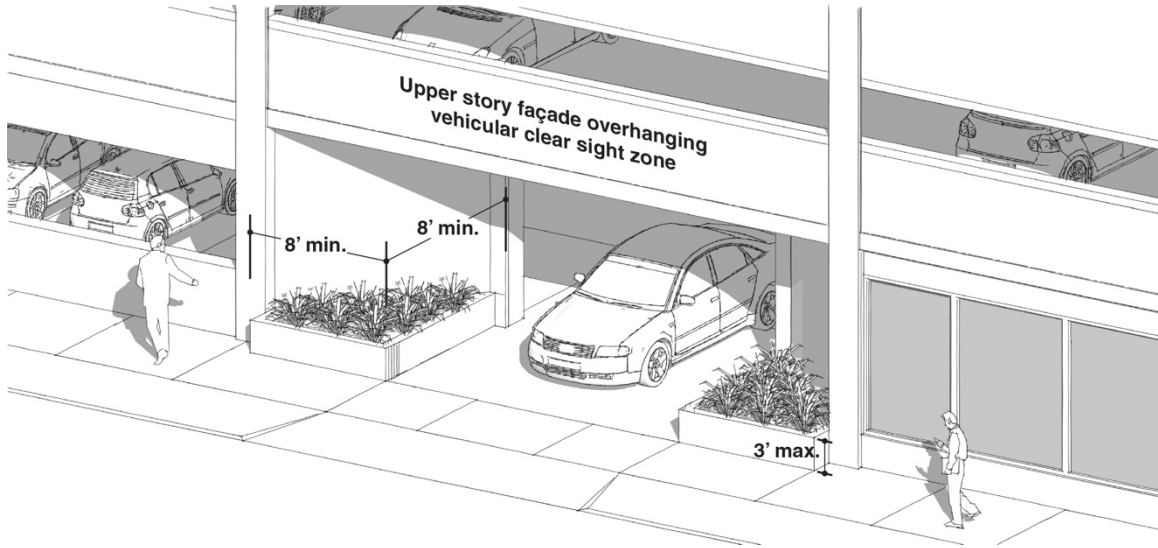
Parking structures are permitted only as a parking facility ancillary to a principal nonresidential use.

1. All parking structures are limited to a maximum height of 35 feet.
2. On facades that front on public streets, façade design and screening must mask the interior ramps.
3. Parking structures must be designed to minimize blank facades through architectural detail and landscape.
4. On portions of the ground floor façade where parking spaces are visible, a decorative fence and landscape or a kneewall is required to screen parking spaces. Such fence or kneewall must be a minimum of four feet in height.
5. For parking structures with rooftop open-air parking, a four foot parapet wall is required for screening.
6. A vehicular clear sight zone must be included at vehicular exit areas as follows:
  - a. The façade of vehicular exit areas must be set back from any pedestrian walkway along that façade a minimum of eight feet for the portion of the façade that includes the vehicle exit area and eight feet on each side of the exit opening.
  - b. A sight triangle is defined by drawing a line from the edge of the vehicular exit area to a point on the property line abutting the pedestrian walkway eight feet to the side of the exit lane.
  - c. In the sight triangle (bound by the parking structure wall, pedestrian walkway and vehicular exit lane), groundcover, landscape, or decorative wall must be used to act as a buffer between the exit aisle and the pedestrian walkway. Landscape or a decorative wall must not exceed three feet in height in order to maintain driver sightlines to the pedestrian walkway.
  - d. The upper story façade(s) of the parking structure may overhang the vehicular clear sight zone.

### PARKING STRUCTURE DESIGN



### PARKING STRUCTURE DESIGN



#### 9.4 REQUIRED OFF-STREET VEHICLE SPACES

**A.** Table 9-2: Off-Street Parking Requirements states the minimum number of off-street parking spaces to be provided for the designated uses. Table 9-2 lists parking requirements for the uses listed within the districts. Certain uses listed within the use matrix do not have parking requirements; these uses are not listed within Table 9-2.

**B.** The total number of required parking spaces is calculated by the principal use of the lot. When more than one use occupies the same lot, the number of required spaces is the sum of the separate requirements for each use. The following standards for computation apply:

1. When calculating the number of off-street parking spaces required and such calculation results in a requirement of a fractional space, any fraction of one-half or less may be disregarded while a fraction in excess of one-half is counted as one parking space.

2. In places of assembly in which patrons or spectators occupy benches, pews, or similar seating facilities, each 24 inches of such seating facility is counted as one seat for the purpose of determining the requirement for off-street parking facilities. Floor area of a prayer hall is counted as one seat per marked prayer mat space or one seat for every five square feet in the prayer hall if prayer mat spaces are not marked.

**New provision**

**C.** Parking spaces within a garage do not count towards required parking for a single-family dwelling or a guest house.

**New**

#### **D. Bus Parking**

**Updated**

Bus parking must be provided for places of public assembly which provide bus service in connection with the activities of the use. Bus parking must include adequate area for the loading and unloading of passengers entirely on the property.

**This table mimics the use table in Article 7. Those highlighted in **YELLOW** are new standards we added that are not in the current ordinance.**

<b>Table 9-2: Required Off-Street Parking Spaces</b>	
<b>Uses</b>	<b>Required Spaces</b>
<b>Residential</b>	
Dwelling - Single-Family	2 spaces
Dwelling - Guest House	2 spaces
<b>Commercial</b>	
Adult Use	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Art Gallery	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Arts and Fitness Studio	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Day Care Center	1 space/500sf GFA
Financial Institution	1 space/250sf for first 60% GFA then 1 space/500sf for remaining GFA
Gas Station	1 space/250sf GFA of any structure + 1 spaces per pump
Health Club	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Hotel	1.5 spaces/guest room
Indoor Recreation	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Medical Cannabis Dispensing Facilities	1 space/300sf GFA
Medical/Dental Clinic	1 space/50sf GFA
Office	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Personal Services	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
Restaurant	1 space/100sf GFA
Retail Sales	1 space/250sf for first 60% of GFA then 1 space/500sf for remaining GFA
<b>Industrial</b>	
Medical Cannabis Cultivation Facilities	1 space/2,500sf GFA
Office and Light Industrial Park	1 space/300sf GFA of office + 1 space/2,500sf GFA of warehouse area
Research & Development	1 space/300sf GFA
Showroom - No Outdoor Storage	1 space/500sf GFA
Warehouse	1 space/2,500sf GFA
<b>Institutional/Assembly</b>	
Places of Public Assembly	1 space/4 persons of assembly space GFA + 3.5 spaces/1,000sf of non-assembly space GFA  Parking Maximum: 115% of required minimum parking
Educational Facility - Vocational/Trade	1 space/300sf GFA
Government Offices	1 space/300sf GFA
<b>Agricultural/Open Space</b>	
Botanical Garden	1 space/2,500sf GFA

## 9.5 REQUIRED OFF-STREET LOADING SPACES

### A. Location

1. All required loading berths must be located on the same lot as the use served.
2. No loading berth for vehicles over two tons capacity may be closer than 50 feet to any lot line of a lot within a residential district unless completely enclosed by building walls or a uniformly painted solid fence or wall, or a combination, a minimum of six feet and a maximum of eight feet in height.
3. All loading berths must be located in the rear yard. Truck loading bays and off-street truck parking spaces must be located in building walls or areas of the lot parallel or adjacent to a rear lot line. Such bays must be bermed, fenced, and/or planted in a manner so that any vehicles within such bays are not visible from the street.  
**Updated to state must be in the rear**
4. No permitted or required loading berth may be located within 25 feet of the nearest point of intersection of any two streets.

### B. Dimensions

A loading berth must be a minimum of ten feet in width and a minimum of 50 feet in length, exclusive of aisles and maneuvering spaces. A loading berth must have a vertical clearance a minimum of 15 feet.

### C. Access

Each required off-street loading berth must be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.

### D. Surfacing

All open off-street loading berths must be improved with a compacted macadam base, not less than seven inches thick, surfaced with no less than two inches of asphaltic concrete or some comparable all-weather dustless material.

### E. Repair and Service Prohibited

Motor vehicle repair work or service of any kind is prohibited within the loading berth and associated area.

### F. Required Loading Berths

A minimum of one loading space is required for any commercial or industrial use of 10,000 square feet or more of gross floor area.

**These were the required loading standards we found. Please see above for revision that simplifies the standard based on Mettawa's development area:**

***Research & Development - 1 loading berth per 4,000sf of GFA***

***O/R District The maximum truck bay requirement shall be two (2) bays per principal building.***

**Further this provision was deleted:**

***Uses for which off-street loading facilities are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities shall be provided with adequate receiving facilities off any service drive, or open space on the same lot which is accessible by motor vehicle.***

## 9.6 COMMERCIAL AND RECREATIONAL VEHICLE STORAGE

### NEW

### A. Commercial Vehicles

#### 1. Residential Lots

- a. No commercial vehicle may be parked outdoors on a residential lot, with the following exceptions:
  - i. Vehicles engaged in loading or unloading or current work being done to the adjacent premises.

- ii. Commercial vehicles that are standard size passenger motor vehicles including, but not limited to, vans, sports utility vehicles (SUVs), standard passenger size livery vehicles, and pick-up trucks, may be stored or parked outdoors overnight on lots in residential districts in a permitted parking area. Such permitted commercial vehicles may include the logo of the commercial business painted on or applied to the vehicle.
- b. All other commercial vehicles including, but not limited to, semi-truck tractor units, with or without attached trailers, commercial trailers, flatbed trucks, box vans and box trucks, buses, tow trucks, construction vehicles, livery vehicles that exceed standard passenger vehicle size, such as limousines, or other large commercial vehicles are not permitted to be stored or parked outdoors overnight on a residential lot.

## **2. Nonresidential Lots**

On nonresidential lots, commercial vehicles with the logo of the commercial business painted on or applied to the vehicle that are being operated and stored in the normal course of business, such as signs located on delivery trucks, promotional vehicles, moving vans, and rental trucks, are permitted to be stored on the lot in areas related to their use as vehicles, provided that the primary purpose of such vehicles is not the display of signs. All such vehicles must be in operable condition.

## **B. Recreational Vehicles**

1. No recreational vehicle or trailer licensed to transport recreational vehicles or equipment may be stored outdoors within the front yard, including on a residential driveway, for more than five days.
2. Recreational vehicles must be stored within the side yard behind the front building line or in the rear yard. If a recreational vehicle and any trailer that is more than six feet in height as measured to the highest point of the vehicle, it must be located at least ten feet from any lot line.
3. The area devoted to recreational vehicle storage must be on a hard surfaced, all-weather dustless material; pervious paving is encouraged and may also be used. Gravel is prohibited.
4. There is no limit on the storage of recreational vehicle within fully enclosed structures. Temporary storage tents do not meet the requirement of a fully enclosed structure.
5. No recreational vehicle may be used for living, sleeping, or housekeeping purposes in any district and may not be hooked up to any public utilities.
6. All recreational vehicles must be maintained in mobile condition. No recreational vehicle may be parked or stored in such manner as to create a dangerous or unsafe condition on the lot where it is parked or stored. If the recreational vehicle is parked or stored, whether loaded or not, so that it may tip or roll, it is considered to be a dangerous and unsafe condition.



## Article 10. Landscape

- 10.1 PURPOSE AND APPLICABILITY
- 10.2 REQUIRED LANDSCAPE SELECTION, INSTALLATION AND MAINTENANCE
- 10.3 REQUIRED LANDSCAPE DESIGN STANDARDS
- 10.4 PARKING LOT PERIMETER LANDSCAPE
- 10.5 PARKING LOT INTERIOR LANDSCAPE
- 10.6 SITE LANDSCAPE
- 10.7 BUFFER YARD

### 10.1 PURPOSE AND APPLICABILITY

#### NEW

#### A. PURPOSE

Landscaping is required to create attractive development, to protect and preserve the appearance and character of the surrounding area, and to help delineate and define vehicular and pedestrian passageways and open space within the development.

#### B. APPLICABILITY

The landscape requirements of this Article do not apply to single-family dwellings and guest house dwellings.

### 10.2 REQUIRED LANDSCAPE SELECTION, INSTALLATION AND MAINTENANCE

#### NEW

When landscape is required by this Article, the following standards apply.

#### A. Selection

1. All plant materials must be of good quality and meet American Horticulture Industry Association (AmericanHort) or its ANSI accredited successor's standards for minimum acceptable form, quality, and size for species selected.
2. Native plants, indigenous to the northern Illinois region, must be used for landscaping.
4. Invasive species are prohibited.

#### B. Installation

1. All landscape materials must be installed in accordance with current nursery industry standards, and must be properly supported to ensure survival. Support devices such as guy wires or stakes cannot create a safety hazard and must not interfere with pedestrian or vehicular movement.
2. No plantings may be installed to impede water flow unless part of an approved stormwater plan.
3. No landscape can be located within any utility easement, with the exception of lawn grass or other resilient groundcover. If landscape material is located within a utility easement and repair or replacement of the utility is needed, the Village or utility is not responsible for the replacement of any landscape that may be damaged.
4. All plant materials must be free of disease and installed so that soil of sufficient volume, composition, and nutrient balance are available to sustain healthy growth. Installation of plant materials during the appropriate growing season is encouraged.
5. In the case of required plantings, any fractions are rounded up to the nearest whole number.

#### C. Maintenance

1. Sites must be permanently maintained in good condition with at least the same quality and quantity of landscaping as initially approved.
2. If any of the plant materials required on the site plan die or are seriously damaged, they must be replaced. Failure to maintain the site in accordance with the approved site plan constitutes a zoning violation and will be enforced in accordance with this Ordinance.

**10.3 REQUIRED LANDSCAPE DESIGN STANDARDS**

**NEW**

When landscape is required by this Article, the following design standards apply.

**A. Minimum Planting Sizes**

Minimum planting sizes are as follows. For the purposes of determining trunk size, the diameter/caliper is measured at six inches above ground level, unless otherwise specified in current ANSI accredited Horticultural Standards.

1. Evergreen trees must have a minimum height of six feet.
2. Shade trees must have a 1.5 inch caliper.
3. Single stem ornamental trees must have a 1.5 inch caliper.
4. Multiple stem ornamental trees must have a minimum height of eight feet.
5. Evergreen or deciduous shrubs must have a minimum height of 18 inches.

**B. Species Diversity**

Diversity among required plant material is required for visual interest and to reduce the risk of losing a large population of plants due to disease. Table 10-1: Plant Diversity Requirements indicates the percentage of diversity required based on the total quantity of species being used. (For example, if a development requires 45 shade trees, no more than 18 trees (40%) can be of one species, and there must be a minimum of five different species within the 45 trees.) When the calculation of plant diversity requirements results in a fraction, the fraction is rounded up.

TABLE 10-1: PLANT DIVERSITY REQUIREMENTS		
Total Number of Plants per Plant Type	Maximum Number of One Species	Minimum Number of Species
1-4	100%	1
5-10	60%	2
11-15	45%	3
16-75	40%	5
76-500	25%	8
500-1,000	30%	10
1,000+	15%	15

**C. Stormwater Management**

1. Bio-retention areas are encouraged and are considered to meet the landscaping requirements. If a stormwater management pond is proposed, it must be integrated into the overall development and serve as a visual amenity to the site.
2. Parking lot islands and landscape areas are encouraged to be designed to accommodate stormwater detention and infiltration

**10.4 PARKING LOT PERIMETER LANDSCAPE**

**Revised**

**Required for any parking lot (not just 5 or more). In addition the “abutting residential” was taken out as that is covered by a transitional yard below, with more stringent landscape.**

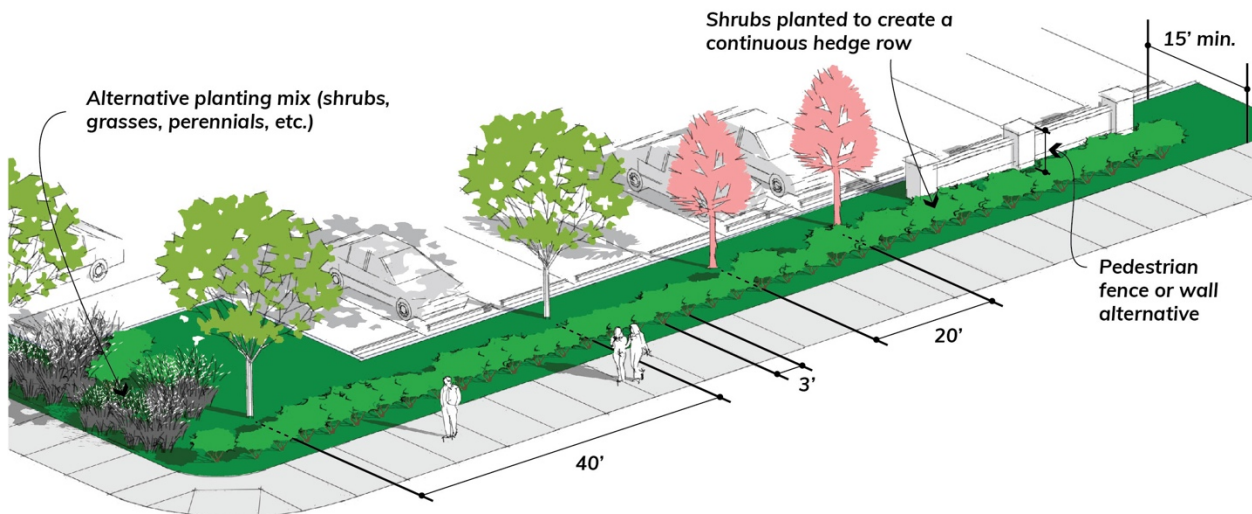
A parking lot perimeter landscape is required for all parking lots that abut a street. A perimeter landscape yard is also required where a parking lot abuts an adjacent public space such as a plaza, public seating area, or park in any district. The landscaped area must be improved as follows:

**This replaces the site plan review standard:**

***b. Parking facilities shall be treated with decorative elements, i.e. building wall extensions, dense non-deciduous plantings, berms at least five (5) feet high, and/or other innovative means so as to screen parking facilities so that they are not visible from the street or from residential uses.***

- A. Perimeter landscape must be established along the edge of the parking lot abutting a street, plaza, public seating area, or park to create a visually attractive environment. The landscape treatment must run the full length of the parking lot perimeter between the lot line and the edge of the parking lot, with the exception of accessways. Perimeter landscape area must be a minimum of 15 feet in width.
- B. Shrubs must be planted and spaced sufficiently to form a continuous linear hedgerow at plant maturity a minimum of three feet in height within three years and achieve a minimum of four feet in height. The minimum number of shrubs required is one shrub for every three linear feet. Alternatively, a mix of shrubs, perennials, native grasses, and other planting types that provide a continuous screening of a minimum of three feet in height within three years may be used.
- C. A minimum of one shade tree must be provided for every 40 linear feet of perimeter landscape yard. Two ornamental trees may be substituted for one shade tree and must be spaced one ornamental tree every 20 feet. Trees may be spaced linearly on-center or grouped to complement an overall design concept.
- D. 60% of the remaining landscape area outside of shrub and tree masses must be planted in live groundcover, perennials, or ornamental grasses. Mulch or other permeable landscape materials are required for any remaining area.
- E. The following alternatives are allowed in place of the requirements of items B through D (one of the two):
  1. A low pedestrian masonry, brick, or stone wall a minimum of four feet to a maximum of six feet in height may be used. A mix of shrubs, perennials, native grasses, and other planting types must be installed between the front lot line and the wall to provide a softening effect.
  2. An ornamental fence that is a minimum of 50% open a minimum of four feet to a maximum of six feet in height may be used. Shrubs as required above must be planted but shade trees are not required. 60% of the landscape area outside of required shrub and any tree masses must be planted in live groundcover, perennials, or ornamental grasses. Permeable landscape materials are required for any remaining area.

### PARKING LOT PERIMETER LANDSCAPE



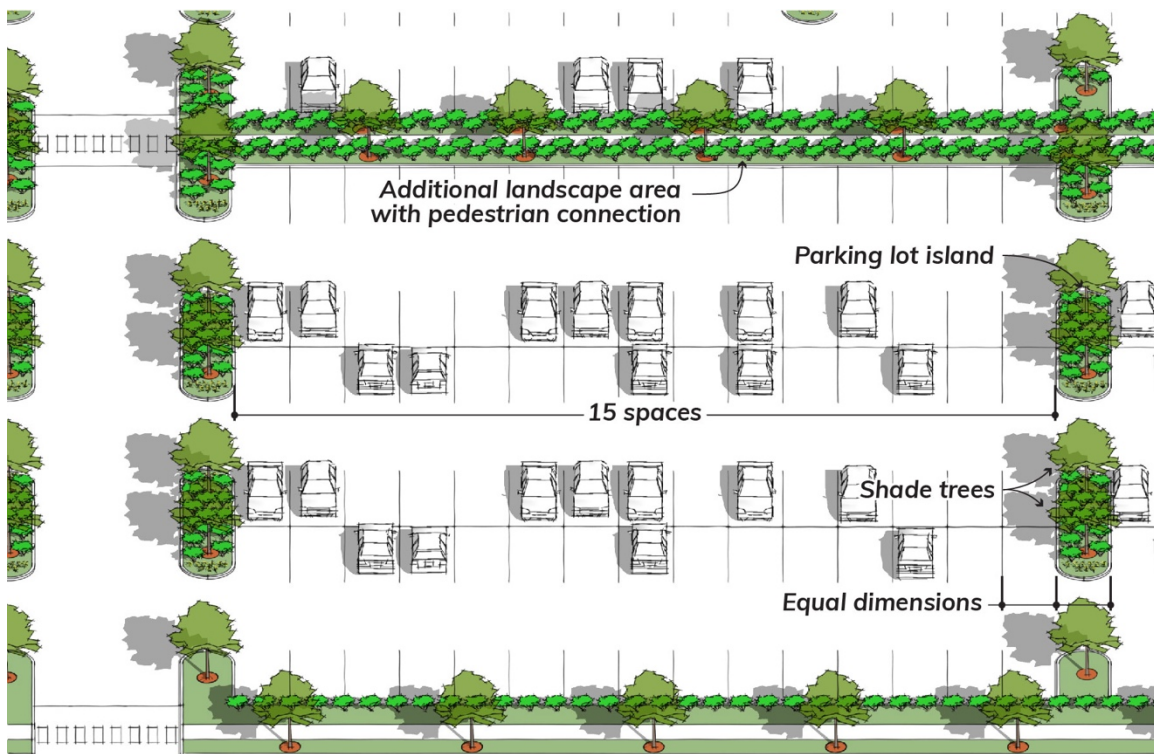
### 10.5 PARKING LOT INTERIOR LANDSCAPE

#### NEW

The purpose of parking lot interior landscape is to help delineate vehicular and pedestrian passageways, minimize the negative visual impact of large expanses of pavement, provide shade and reduce heat and glare, and accommodate stormwater management techniques. All parking lots of 15 or more spaces are required to install parking lot interior landscape as follows:

- A. Where more than 15 parking stalls are provided in a row, one parking lot island must be provided between every 15 parking spaces. Parking lot island locations may be varied based on specific site requirements or design scheme, but the total number of islands must be no less than the amount required of one island for every 15 spaces.
- B. Parking lot islands must be at least the same dimension as the parking stall. Double rows of parking must provide parking lot islands that are the same dimension as the double row.
- D. A minimum of one shade tree must be provided in every parking lot island or landscape area. If a parking lot island extends the width of a double row, then two shade trees are required. In addition to the required shade trees, a minimum of 30% of the area of every parking lot island must be planted in shrubs, live groundcover, perennials, or ornamental grasses.
- E. In addition to parking lot islands, additional landscape areas must be provided within the interior of parking lots when the parking area is 20,000 square feet or more in area, which includes parking stalls, islands, and area for vehicular circulation. The minimum total landscape area of a parking lot, including parking lot islands, must be 10% of the total parking lot area. Parking lot perimeter landscape is excluded from the calculation of total parking lot area square footage and is not counted toward required landscape area.
- F. Clearly delineated crosswalks of paving, brick paver, bituminous brick pattern stamping, or painted striping must connect landscaped areas and parking lot islands to building entrances to improve safe passageway for pedestrians. Curb cuts must be included on landscaped areas or islands where such crosswalks are located.

### PARKING LOT INTERIOR LANDSCAPE



### 10.6 SITE LANDSCAPE

- A. Areas of any lot that are not covered by structures or pavement must be planted with live landscaping.
- B. For non-residential uses, the total landscaping requirement for building sites must consist of one tree for each 3,000 square feet of lot area. Existing trees and trees required for plantings as per this Article are counted toward this requirement. Where building sites limit planting, the placement of trees in parkways or paved areas is encouraged.

Moved from site plan review standards and simplified, clarified. Also requires 3" caliper for a newly planted tree is large. The current standard for reference:

*The total landscaping requirement for building sites shall consist of one inch caliper for each 1,000 square feet of lot area. Each tree shall be a minimum diameter of three inches measured one foot from the base.*

Mathematically, the resulting number of trees is the same - using a 100,000sf lot as an example

Current:

1" of caliper for 1,000sf, minimum caliper of 3" tree  
 $100,000sf/1,000sf = 100"$  of caliper  
 $100" \text{ caliper}/3" \text{ caliper} = 33 \text{ trees each of } 3" \text{ in caliper}$

Proposed:

1 tree for 3,000sf  
 $100,000sf/3,000sf = 33 \text{ trees}$  (proposed minimum in section 10.3 is 1.5" but this also allows for the planting of evergreens and ornamental trees, allowing for more diversity)

## 10.7 BUFFER YARD

### NEW

This replaces the term "transitional yard" - buffer yard is a more common term. You see that the sizes in item A below reflect the sizes of required transitional yards now. The planting requirements are new.

#### A. Buffer Yards

##### 1. O/R and TC Districts

The new proposed TC District has been added here

- a. Where the interior side or rear lot line abuts a residential district: 100 feet
- b. Where the front or corner side lot line is located across the street from a residential district - this applies when at least 80% or more of the frontage directly across the street and between two consecutive intersecting streets is in a residential district: 100 feet

##### 2. H District

- a. Where the interior side or rear lot line abuts a residential district: 50 feet or the applicable interior side or rear minimum setback for the abutting residential district, whichever is greater
- b. Where the front or corner side lot line is located across the street from a residential district - this applies when at least 80% or more of the frontage directly across the street and between two consecutive intersecting streets is in a residential district: 50 feet or the applicable interior side or rear minimum setback for the abutting residential district, whichever is greater
- c. Where the front or corner side lot line is a continuation of a residential district's front or corner side lot line (no intersecting street): 50 feet or the applicable interior side or rear minimum setback for the abutting residential district, whichever is greater

#### B. Rear and Interior Side Setback Buffer Yard

The required buffer yard in rear and interior side setbacks must be planted as required by this section. These are all new planting requirements.

##### 1. Zone A

Zone A comprises the first 25 feet of the buffer yard, measured perpendicularly from the rear or interior side lot line. Requirements for plantings within zone A are as follows:

- a. All areas outside of delineated planting beds must be seeded or sodded, except where natural vegetation is acceptable as approved by the Zoning Administrator.
- b. One shade tree must be planted for every 20 linear feet of buffer yard length. As part of site plan approval, trees may be spaced at various intervals based upon specific site features or an overall design schema, but the total number of trees planted must be no less than one per 20 linear feet of buffer yard length. Existing trees in the buffer yard may count toward the buffer yard tree requirement. This credit is a 1:1 ratio (one existing tree for one required tree) regardless of the size of the existing tree.

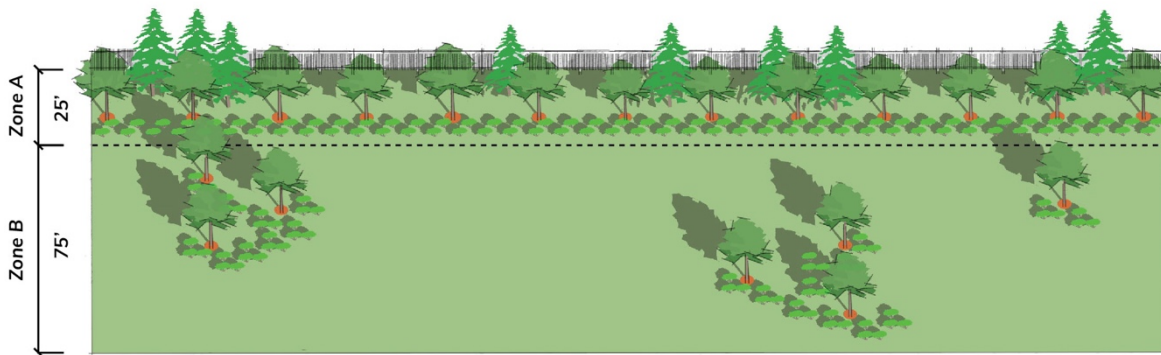
- c. One evergreen tree must be planted for every 30 feet of buffer yard length. As part of site plan approval, trees may be spaced at various intervals based upon specific site features or an overall design schema, but the total number of trees planted must be no less than one per 30 linear feet of buffer yard length. Existing trees in the buffer yard may count toward the buffer yard tree requirement. This credit is a 1:1 ratio (one existing tree for one required tree) regardless of the size of the existing tree.
- d. One evergreen shrub must be planted for every three linear feet of buffer yard length. Required shrubs must be staggered, planted in two or more rows to provide depth and visual interest, and to lessen the visual gaps between required tree plantings. As part of site plan approval, shrubs may be spaced at various intervals based upon specific site features or an overall design schema, but the total number of shrubs planted must be no less than one per three linear feet of buffer yard length.
- e. A solid fence or wall, constructed of wood, brick, masonry, or stone a minimum of six feet and a maximum of eight feet in height must be erected at the lot line for 100% of the buffer yard length, with the exception of required ingress/egress points. If constructed on a berm, the height of the berm is included, and the maximum height of a fence and berm combined is eight feet.
- f. Required plant material may not be located closer than five feet from the fence line.

**2. Zone B**

Zone B comprises the remainder of the required buffer yard outside of zone A. Requirements for plantings within zone B are as follows:

- a. All areas outside of delineated planting beds must be seeded or sodded, except where natural vegetation is acceptable as approved by the Zoning Administrator.
- b. One shade tree is required per 3,000 square feet of buffer yard area within zone B. Ornamental trees may be substituted for shade trees at a ratio of 1.5 ornamental trees per one shade tree.
- c. One deciduous or evergreen shrub is required per 300 square feet of buffer yard area within zone B.
- d. In lieu of required shrubs, as part of site plan review, alternative plantings including native landscape treatments such as prairie, meadow, or wildflower communities may be approved. Such alternative plantings must occupy 40% of the area of zone B.

**REAR AND INTERIOR SIDE SETBACK BUFFER YARD**

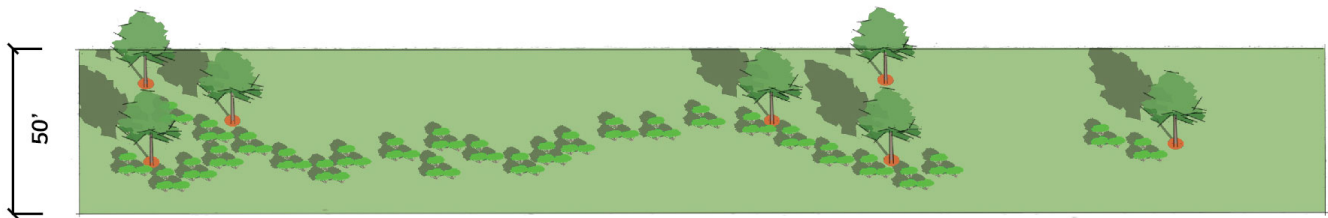


**C. Front and Corner Side Setback Buffer Yard**

The required buffer yard in front and corner side setbacks must be planted as required by this section. These are all new planting requirements.

1. All areas outside of delineated planting beds must be seeded or sodded, except where natural vegetation is acceptable as approved by the Zoning Administrator.
2. One shade tree is required per 2,000 square feet of buffer yard area. Ornamental trees may be substituted for shade trees at a ratio of 1.5 ornamental trees per one shade tree.
3. One deciduous or evergreen shrub is required per 150 square feet of buffer yard area.
4. In lieu of required shrubs, as part of site plan review, alternative plantings including native landscape treatments such as prairie, meadow, or wildflower communities may be approved. Such alternative plantings must occupy 60% of the buffer yard area.

**FRONT AND CORNER SIDE SETBACK BUFFER YARD**







## Article 11. Zoning Administration

- 11.1 ZONING OFFICIALS
- 11.2 PERMIT
- 11.3 APPLICATION PROCESSES GENERALLY
- 11.4 ZONING TEXT AND MAP AMENDMENTS
- 11.5 SPECIAL USE
- 11.6 VARIATION
- 11.7 SITE PLAN REVIEW
- 11.8 ZONING INTERPRETATION
- 11.9 ZONING CERTIFICATE
- 11.10 ZONING APPEALS OF ZONING ADMINISTRATOR DECISIONS
- 11.11 OCCUPANCY CERTIFICATE

### 11.1 ZONING OFFICIALS

#### A. Village Board

The Village Board has the following specific powers, pursuant to this Ordinance:

1. To make final decisions on zoning text and map amendments.
2. To make final decisions on special use permits.
3. To make final decisions on variations.
4. To make final decisions on planned unit developments.

#### B. Zoning, Planning, and Appeals Commission

The Zoning, Planning, and Appeals Commission has the following specific powers, pursuant to this Ordinance:

1. To make recommendations on zoning text and map amendments.
2. To make recommendations on special use permits.
3. To make recommendations on variations.
4. To make final decisions on zoning appeals of Zoning Administrator decisions.
5. To make recommendations on planned unit developments.

#### C. Zoning Administrator

##### 1. Designation

The Director of Building and Zoning of the Village of Mettawa serves ex officio as the head of the office of the Zoning Administrator and is referred to as the Zoning Administrator.

##### 2. Powers and Duties

The Zoning Administrator, or his/her designee, has the following specific powers and duties, pursuant to this Ordinance:

- a. To review and make final decisions on applications for zoning certificates.
- b. To review and make final decisions on applications for occupancy certificates.
- c. To conduct inspections of structures or the use of land to determine compliance with this Ordinance and, in the case of any violation, to notify in writing the person or persons responsible, specifying the violation and order a corrective action.
- d. To maintain in current status the Official Zoning Map.

- e. To maintain permanent and current records required by this Ordinance including, but not limited to, zoning certificates, inspections, and all official action on appeals, variations, and amendments.
- f. To prepare and have available in book, pamphlet, or map form, on or before March 31<sup>st</sup> of each year:
  - i. The compiled text of the Zoning Ordinance, including all amendments thereto through the preceding December 31<sup>st</sup>.
  - ii. A zoning map or maps, showing the zoning districts, divisions, and classifications in effect on the preceding December 31<sup>st</sup>.
- g. To notify applicable officials of the Village as to pending matters and from time to time coordinate and arrange, under the auspices of the Village President, meetings between developers, builders, etc., and administrative officials of the Village of Mettawa to facilitate the solving of engineering, layout, and design problems prior to hearings before the Zoning, Planning, and Appeals Commission.
- h. To maintain for distribution to the public a supply of the rules and bylaws of the Zoning, Planning, and Appeals Commission.
- i. To accept applications for public hearings before the Zoning, Planning, and Appeals Commission and to forward same to the Office of the Village Clerk for processing and publication of proper legal notice.

**D. Restrictions on Zoning Official**

No official or employee responsible for the enforcing of this Ordinance may engage directly or indirectly in the construction industry or the building professions, or in any type of gainful employment or business that conflicts with such official's duties or the interests of the business incorporated in this Ordinance.

**11.2 PERMIT**

**A.** No application for a building permit, certificate of use or occupancy, or other permit or license may be approved by the Zoning Administrator which would authorize the use or a change in use of any building or land contrary to the provisions of this Ordinance, or the construction, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this Ordinance.

**B.** No permit may be issued:

- 1. When an appeal is pending before the Zoning, Planning, and Appeals Commission.
- 2. While a recommendation of the Zoning, Planning, and Appeals Commission may be pending before the Village Board.
- 3. While litigation is pending in any court challenging the Village's actions.
- 4. During the time within which such appeal from a court's action can lawfully be taken.

**C.** However, the Zoning Administrator may certify to the Village Board after the notice of appeal has been filed, by the reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In this event, the proceedings cannot be stayed other than by a restraining order entered by a court of competent jurisdiction on due cause shown.

**11.3 APPLICATION PROCESSES GENERALLY**

**A. Applications**

**1. Filing and Optional Pre-Application Conference**

**NEW**

- a. All zoning applications must be filed with the Village Clerk with a copy submitted to the Zoning Administrator. The application must be on forms provided by the Village and filed in such quantity as required by the instructions.

b. Prior to formal submittal of an application, a pre-application conference with the Zoning Administrator is optional. The purpose of the pre-application conference, which does not require a formal application or fees, is to provide informal advice and assistance to the applicant. Any opinions or advice provided are not binding with respect to any official action that may be taken on the application. Certain applications may require a pre-application conference.

## **2. Completeness**

### **NEW**

a. The application must include all information, plans, and data as specified in the application requirements. Any required plans must be at a scale sufficient to permit a clear and precise understanding of the proposal, unless specifically required to be at a set scale.

b. The Zoning Administrator will examine all applications to determine completeness. If the application does not include all the submittal requirements for the application, the Zoning Administrator will reject the application and provide the applicant with the reasons for the rejection. The Zoning Administrator will take no further steps to process the application until all deficiencies are remedied.

c. After an application is determined to be complete, any substantive change made by the applicant to the application requires resubmittal of the entire application and a new completeness review. However, such revisions do not require an additional payment of fees. However, once the application is under consideration by the appropriate body, additional information or revisions requested during review do not constitute a change to the application.

## **3. Withdrawal of Application**

### **NEW**

An applicant has the right to withdraw an application at any time prior to the final decision on the application by a board or official, including the ability to withdraw the application if it has been tabled. The applicant must submit a request for withdrawal in writing. There will be no refund of fees.

## **4. Consideration of Successive Applications**

### **NEW**

a. Within one year of the date of denial, a subsequent application for the same zoning approval will not be reviewed or heard unless the applicant can show there is substantial new evidence available or that changed circumstances exist.

b. If the application is resubmitted earlier than one year from the date of denial, the subsequent application must include a detailed statement of the grounds justifying its consideration. The Zoning Administrator will make a determination as to whether the subsequent application is appropriate for resubmittal prior to the expiration of the one year wait requirement. If the Zoning Administrator finds that there are no new grounds for consideration of the subsequent application, he/she will summarily, and without hearing, deny the request.

## **5. Fees**

### **These are being moved to a fee schedule outside of the zoning ordinance**

Payment of filing fees are required in accordance with the Comprehensive Fee Schedule adopted by the Village Board.

**B. Notice**

**1. Required Notice**

**We added requirements for posted notice**

Table 13-1: Required Notice indicates the types of notice required for zoning applications. Item 5 below also describes a courtesy notice for public hearing that may be provided by the Village.

Table 11-1: Required Notice			
Zoning Application	Notice Type		
	Published	Mailed	Posted on Property
<b>Zoning Text Amendment</b> Notice for Public Hearing	X		
<b>Zoning Map Amendment</b> Notice for Public Hearing	X	X	X
<b>Zoning Map Amendment - Comprehensive Zoning Map Amendment Initiated by the Village</b> Notice for Public Hearing	X		
<b>Special Use</b> Notice for Public Hearing	X	X	X
<b>Variation</b> Notice for Public Hearing	X	X	X
<b>Zoning Appeals</b> Notice for Public Hearing	X		

**2. Published Notice**

When published notice is required in Table 11-1, the Village Clerk will publish notice in one or more newspapers published in the Village or, if no newspaper is published within the Village, then in one or more newspapers with a general circulation within the Village. The notice must include the date, time, place, and purpose of such hearing, and the common address and Parcel Identification Number (PIN) of the subject property. Notice must be published no less than 15 days and no more than 30 days in advance of the scheduled hearing date.

**Added requirements for the notice language in line with IL requirements**

**3. Mailed Notice**

**Updated for compliance**

When mailed notice is required in Table 11-1, the applicant is responsible for the mailing, by regular U.S. Mail, as described below, and must furnish the Village Clerk an affidavit that such notices were mailed prior to the date of the hearing.

- a. Written notice must be mailed no less than 15 and no more than 30 days in advance of the scheduled hearing date to all taxpayers of record of property laying within 1,000 feet of the subject property:
- b. Distance is measured from the property line in each direction from the subject property. All roads, streets, and other public ways are excluded from the distance requirements.
- c. The notice must include the date, time, place, and purpose of such hearing, and the common address and Parcel Identification Number (PIN) of the subject property.
- d. Nothing in this section is intended to prevent the applicant or the Village from giving additional notice as he/she may deem appropriate.
- e. If the taxpayer of record of any property on which notice is to be sent cannot be found at his/her last known address, the notice requirements are deemed satisfied.

#### 4. Posted Notice

**NEW - We added posted notice to map amendment, special use, variation.**

When posted notice is required in Table 11-1, it must be located on the subject property in accordance with the following provisions:

- a. The required posting period must be no less than 15 days and no more than 30 days in advance of the scheduled hearing date.
- b. The sign must be posted at a prominent location on the property, near the sidewalk or public or private right-of-way so that it is visible to pedestrians and motorists. Properties with more than one street frontage are required to post one sign visible on each street frontage.
- c. The sign must include the date, time, place, and purpose of the public hearing.
- d. The Village will install the sign during the required posting period.

#### 5. Website/Email Public Hearing Courtesy Notice

**The following courtesy notice was previously adopted by the Village. This is show here as an addition because it was accidentally excluded from the first public draft.**

- a. The Zoning Administrator will coordinate with the Village Clerk to post notice to the Village website and to send email notification to a Village-maintained email list regarding public hearings conducted by the Zoning, Planning, and Appeals Commission.
- b. Public hearing notice will be posted to the Village website if the Village maintains a website at least 15 days before the public hearing.
- c. Public hearing notice will be emailed to recipients on an email list maintained by the Village if the Village maintains such an email list at least 15 days before the public hearing.
- d. Such notice is a courtesy notice not required by State law. The unavailability of such applications or notices on the Village's website, or the failure to send or receive such emails, as described above, does not invalidate, impair, or otherwise effect any approval granted following a public hearing. Website and email notice, as described above, are for the convenience of the public and not a jurisdictional prerequisite to the Zoning, Planning, and Appeals Commission's public hearing and recommendation, or for the Village Board's decision on any application.

### C. Public Hearing

#### 1. Examination of Documents

Upon receipt by the Zoning Administrator of an application that requires a public hearing, the Zoning Administrator will assign a case and/or docket number to the application and maintain a file for such. The file will be open to the public for inspection during regular business hours. All documents pertinent to the case (application, legal notice, evidence, exhibits, transcript or record of proceedings, etc.) will be placed in said file by the Zoning Administrator.

#### 2. Conduct of the Public Hearing

- a. The public hearing must be conducted in accordance with all applicable requirements of Illinois law and the rules and regulations of the body conducting the hearing.  
**NEW**
- b. Any party in interest may appear and be heard at a public hearing held for an application, and such appearance may be made in person, by agent (if a corporation), or by attorney.

#### 3. Continuances

**NEW**

The body conducting the hearing may continue a public hearing. No new notice is required to reopen the public hearing if the hearing is continued to a date specific, provided that a public announcement of the future date, time, and place of the continued hearing is made at the current hearing and recorded in the minutes. If the hearing is adjourned, rather than continued to a date specified, in order to reopen the hearing all notice must be given that would have been required for the initial public hearing.

## 11.4 ZONING TEXT AND MAP AMENDMENTS

### A. Purpose

#### Updated

The regulations imposed and the districts created by this Ordinance may be amended from time to time in accordance with this section. This process for amending the Zoning Ordinance text or the Official Zoning Map is intended to allow modifications in response to omissions or errors, changed conditions, or changes in Village policy. Amendments are not intended to relieve particular hardships or confer special privileges or rights upon any person or party.

### B. Initiation

Amendments to this Chapter may be initiated by the Village Board, the Village President, the Zoning, Planning, and Appeals Commission, any Village property owner or his/her authorized designee(s), or by any interested citizen of the Village of Mettawa.

### C. Authority

The Village Board, after receiving a recommendation from the Zoning, Planning, and Appeals Commission, will take formal action on requests for zoning text and map amendments.

### D. Procedure

All applications must be filed with the Village Clerk in accordance with Section 11.3.

#### 1. Action by the Zoning, Planning, and Appeals Commission

- a. After receipt of a complete application, the Zoning, Planning, and Appeals Commission will consider the proposed application at a public hearing. Notice for the public hearing must be in accordance with Section 11.3.
- b. Within 45 days of the close of the public hearing, the Zoning, Planning, and Appeals Commission will prepare findings of fact and make its recommendation with respect to the proposed amendment and forward their findings and recommendation to the Village Board, as well as the Village Clerk and Zoning Administrator.
- c. If, at the expiration of such 45 days, the Zoning, Planning, and Appeals Commission has not made findings and a recommendation, it is concluded that the Zoning, Planning, and Appeals Commission has made negative findings and has recommended denial of the proposed amendment.
- d. The Zoning, Planning, and Appeals Commission must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. For zoning text amendments, the Zoning, Planning, and Appeals Commission must recommend approval, approval with modifications, or denial of the application. For zoning map amendments, the Zoning, Planning, and Appeals Commission must recommend approval or denial of the application.

#### 2. Action by the Village Board

- a. The Village Board must act on the application within 180 days of receipt of the Zoning, Planning, and Appeals Commission's findings and recommendation. If, at the expiration of 180 days, the Village Board has not acted, the application is denied.
- b. The following applies to when an application has been referred to a committee of the Village Board:
  - i. Whenever the findings and recommendations of the Zoning, Planning, and Appeals Commission have been referred to any committee of the Village Board, the committee must make its report to the Village Board within 160 days of the date that the findings and recommendations are referred to it.
  - ii. If the committee does not make its report within 160 days, then the Village President will discharge the said committee from further responsibility in consideration of the said findings and recommendations, and place the application for such proposed amendment on the agenda of the next regular meeting of the Village Board.

- c. The Village Board must take action in the form of approval, approval with modifications, or denial on applications for zoning text amendments, and approval or denial on applications for zoning map amendments.
- d. No amendments may be proposed within six months of the date of adoption of the Official Comprehensive Plan for the Village of Mettawa by the Village Board unless such amendment is approved by a favorable vote of two-thirds of all of the members of the Village Board then holding office.

## E. Approval Standards

### Updated approval standards

The Zoning, Planning, and Appeals Commission recommendation and the Village Board decision on any zoning text or map amendment is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Zoning, Planning, and Appeals Commission and the Village Board must consider the following standards. The approval of an application is based on a balancing of these standards.

#### 1. Approval Standards for Map Amendments

- a. The consistency of the proposed amendment with the Comprehensive Plan.
- b. The compatibility with the existing use and zoning of nearby property.
- c. The extent to which the proposed amendment promotes the public health, safety, and welfare of the Village.
- d. The relative gain to the public, as compared to the hardship imposed upon the applicant.
- e. The suitability of the subject property for the purposes for which it is presently zoned.
- f. The length of time that the subject property in question has been vacant, as presently zoned, considered in the context of development in the area where the property is located.
- g. The extent to which the proposed amendment creates nonconformities.

#### 2. Approval Standards for Text Amendments

- a. The consistency of the proposed amendment with the Comprehensive Plan.
- b. The extent to which the proposed amendment promotes the public health, safety, and welfare of the Village.
- c. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
- d. The extent to which the proposed amendment creates nonconformities.

## F. Protest

In case of a written protest against any proposed map amendment, signed and acknowledged by the owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjacent, or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered, is filed with the Village Clerk, the proposed amendment cannot be passed except by a favorable vote of two-thirds of all of the members of the Village Board then holding office.

## 11.5 SPECIAL USE

### A. Purpose

The development and execution of this Ordinance is based upon the division of the Village into zoning districts, within which the use of land and buildings, and the bulk and location of buildings and structures in relation to land, are substantially uniform. It is recognized, however, that there are specific uses which, because of their unique characteristics cannot be properly classified in any particular district or districts without consideration in each individual case of the impact of those special uses upon neighboring land and of the public need for that particular special use at that particular location. Such uses may be either public or private, and are of such an unusual nature

that their operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

**B. Initiation**

Special uses may be initiated by any Village property owner or his/her authorized designee(s).

**C. Authority**

The Village Board, after receiving a recommendation from the Zoning, Planning, and Appeals Commission, will take formal action on requests for special uses.

**D. Procedure**

All applications must be filed with the Village Clerk in accordance with Section 11.3.

**1. Action by the Zoning, Planning, and Appeals Commission**

- a.** After receipt of a complete application, the Zoning, Planning, and Appeals Commission will consider the proposed application at a public hearing. Notice for the public hearing must be in accordance with Section 11.3.
- b.** The Zoning, Planning, and Appeals Commission will review the following regarding the special use application: site plan, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed operation. Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, lighting, fencing, planting screens, hours of operation, traffic improvements, deed restrictions, increased yards, or parking requirements.
- c.** The Zoning, Planning, and Appeals Commission must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Zoning, Planning, and Appeals Commission must recommend approval, approval with conditions, or denial of the application.
- d.** Within 45 days of the close of the public hearing, the Zoning, Planning, and Appeals Commission will prepare findings of fact and make its recommendation with respect to the proposed special use and forward their findings and recommendation to the Village Board, as well as the Village Clerk and Zoning Administrator.
- e.** If, at the expiration of such 45 days, the Zoning, Planning, and Appeals Commission has not made findings and a recommendation, it is concluded that the Zoning, Planning, and Appeals Commission has made negative findings and has recommended denial of the special use.

**2. Action by the Village Board**

- a.** The Village Board is authorized to take action to approve by ordinance or deny the application for special use approval, following receipt of the Zoning, Planning, and Appeals Commission recommendations. Ordinances regarding special use approvals must make reference to a site plan attached to the ordinance. The Village Board may refer the matter back to the Zoning, Planning, and Appeals Commission for further consideration.
- b.** The Village Board must take action in the form of approval, approval with conditions, or denial on special use applications. If an application for a proposed special use is not acted upon finally by the Village Board within 180 days of the date upon which the findings and recommendations of the Zoning, Planning, and Appeals Commission are filed with the Board, it is deemed denied.
- c.** In the event the Zoning, Planning, and Appeals Commission recommends against the special use permit, then authority for issuance of the special use permit requires the favorable vote of a majority of all of the members of the Village Board.
- d.** The terms and conditions of a granted special use will be specifically set forth within the ordinance approving the special use permit. No special use can be conducted in violation of the terms and conditions of the ordinance approving the special use permit.



### E. Approval Standards

The Zoning, Planning, and Appeals Commission recommendation and the Village Board decision on a special use must consider the following standards:

1. The special use will serve the public convenience at the location of the subject property and that the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or welfare.
2. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with said special use, the size of the subject property in relation to such special use, and the location of the site with respect to streets given access to it, is such that it will be in harmony with the appropriate, orderly development of the district in which it is located and will not alter the essential character of the locality where it will be located.
3. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purposes already permitted in such zoning district, nor substantially diminish and impair other property valuations within the neighborhood.
4. The nature, location, and size of the buildings or structures involved with the establishment of the special use will not impede, substantially hinder, or discourage the orderly development and use of adjacent land and buildings.
5. Adequate utilities, access streets, drainage, and/or other necessary facilities have been or will be provided.
6. Parking areas are of adequate size for the particular special use, and are properly located and suitably screened from adjoining residential uses. The entrance and exit driveways to and from these parking areas must be designed so as to prevent traffic hazards, eliminate nuisance, and minimize traffic congestion in the public streets.
7. The special use conforms to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified as provided by this Ordinance.

### F. Other Requirements

When the zoning district regulations authorize a special use in a particular zoning district and that special use has additional standards set forth, a special use permit cannot be recommended or granted unless the applicant establishes compliance with all such standards.

### G. Conditions

#### Updated

1. The Zoning, Planning, and Appeals Commission may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the special use as deemed necessary for the protection of the public health, safety, and welfare, which will be contained within the ordinance granting the special use permit.
2. All special uses granted by the Village Board, as the case may be, are hereby amended as a matter of law to include the following text, whether or not such text was included in the special use granted. In the event of any conflict between the terms of a special use and the terms of the following text, the following text controls and supersedes any conflicting term in the special use: *That the failure of any owner of the Subject Property to comply strictly with any one or more of the conditions contained in this Ordinance will cause, unless cured by the owner upon 14 days of notice from the Village, or some other greater time period set by the Village in the notice, a revocation of the special use permit issued hereby as well as every other permit and/or license issued by the Village of Mettawa by reason of the adoption of this Ordinance upon expiration of the cure period set forth herein.*

### H. No Presumption of Approval

#### NEW

The listing of a use as a special use within a zoning district does not constitute an assurance or presumption that such special use will be approved. Rather, each proposed special use is evaluated on an individual basis, in relation to all applicable standards of this Code. Such evaluation will determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed. The burden is on the applicant to establish that the special use requested is appropriate at the particular location and in the particular manner proposed.

### I. Expiration

The following special use expiration provisions apply only to special uses approved on or after February 20, 2018. A special use approval expires if any one of the following conditions occurs and no request for an extension of the special use approval is pending.

1. When an approved special use is changed to another use.

**NEW**

2. For special uses granted in conjunction with new construction or additions or enlargements to an existing structure, the special use approval expires within 12 months of the date of approval if a building permit has not been filed. Further, the special use expires if construction has not begun within 15 months of the date of approval and completed within 24 months of the date of approval. The Village Board may approve an extension of these periods of validity if the applicant applies in writing for an extension of time a minimum of four weeks prior to the date of expiration.

3. For special uses within existing structures or on lots where no structure is planned, the special use approval expires 12 months of the date of approval if the licenses or permits required for the operation or maintenance of the use have not been obtained.

### J. Revision

**NEW**

Any proposed change in the authorizing ordinance, conditions, or restrictions, or site plan alterations that involve building size or integral changes to the design and location of proposed site elements, constitutes a request for special use revision. These changes must be submitted to the Zoning, Planning, and Appeals Commission who will make findings of fact and recommendations that will be transmitted to the Village Board for their approval. Minor site plan additions or changes must be submitted to the Zoning, Planning, and Appeals Commission for site plan review approval. The decision to process site plan additions or changes as a special use revision will be the responsibility of the Zoning, Planning, and Appeals Commission.

### K. Revocation

**NEW**

1. The Village Board, after public hearing, may revoke the special use permit at any time if it is not in compliance with the conditions imposed or if there has been substantial change in the development without prior written approval of said changes by the Zoning, Planning, and Appeals Commission.

2. A public hearing shall be held before the Village Board prior to any revocation of special use. A notice of such public hearing must be published at least once, not more than 30 nor less than 15 days before the hearing, in a newspaper of general circulation in the Village. The notice must contain the date, time, and place of hearing, the street address or common description of the property involved, and a brief statement of the violation alleged to have occurred. Written notice must also be sent, postage prepaid, to the last known address of the possessor of the special use permit.

## 11.6 VARIATION

**THIS IS A FULL REVISION OF THE VARIATION APPROVAL - ELIMINATING THE LIMITS ON THE TYPES OF VARIATIONS AND UPDATING THE APPROVAL STANDARDS (PER THE APPROACH IN THE TECHNICAL REPORT)**

### A. Purpose

The purpose of the variation process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships.

### B. Initiation

A variation may be initiated by any Village property owner or his/her authorized designee(s). A property owner or his/her designee may only propose a variation for property under his/her control.

**C. Authority**

The Village Board, after receiving a recommendation from the Zoning, Planning, and Appeals Commission, will take formal action on requests for variations.

**D. Limitations**

**NEW**

Variations to allow a use within a district that is not allowed as either a permitted or special use (use variations) are prohibited.

**E. Procedure**

All applications must be filed with the Village Clerk in accordance with Section 11.3.

**1. Action by the Zoning, Planning, and Appeals Commission**

- a. After receipt of a complete application, the Zoning, Planning, and Appeals Commission will consider the proposed application at a public hearing. Notice for the public hearing must be in accordance with Section 11.3.
- b. The Zoning, Planning, and Appeals Commission must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section. The Zoning, Planning, and Appeals Commission must recommend approval, approval with conditions, or denial of the application.
- d. Within 45 days of the close of the public hearing, the Zoning, Planning, and Appeals Commission will prepare findings of fact and make its recommendation with respect to the proposed variation and forward their findings and recommendation to the Village Board, as well as the Village Clerk and Zoning Administrator.
- e. If, at the expiration of such 45 days, the Zoning, Planning, and Appeals Commission has not made findings and a recommendation, it is concluded that the Zoning, Planning, and Appeals Commission has made negative findings and has recommended denial of the variation.

**2. Action by the Village Board**

Following receipt of the Zoning, Planning, and Appeals Commission recommendation, the Village Board must take action in the form of approval, approval with conditions, or denial on variation applications. If an application for a proposed variation is not acted upon finally by the Village Board within 180 days of the date upon which the findings and recommendations of the Zoning, Planning, and Appeals Commission are filed with the Board, it is deemed denied.

**F. Approval Standards**

The Zoning, Planning, and Appeals Commission recommendation and the Village Board decision must make findings to support each of the following:

- 1. The strict application of the terms of this Ordinance will result in hardship unless the specific relief requested is granted.
- 2. The particular physical surroundings, shape, or topographical conditions of the specific property impose a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- 3. The plight of the owner is due to unique circumstances that do not apply to a majority of adjoining or nearby property, and is not a self-created hardship.
- 4. The relief requested is the minimum necessary to eliminate the hardship
- 5. The variation, if granted, will not alter the essential character of the locality.

#### **G. Conditions**

The Village Board may impose conditions and restrictions upon the variation as deemed necessary for the protection of the public health, safety, and welfare which must be contained within the ordinance granting the variation. The Village Board may grant a variation that is less than that requested when it has been decided that the applicant is entitled to some relief of the hardship, but not to the entire relief requested in the variation application.

#### **H. Expiration**

An approved variation will expire one year from the date of approval unless a building permit is obtained or construction has begun prior to the end of the one year period. The Village Board may grant an extension for a period of validity longer than one year as part of the original approval or it may shorten such period of validity as part of the original approval. An applicant may apply in writing for an extension of time at any time prior to the date of expiration, which will be processed as a new variation application including all required notice and fees.

#### **I. Restriction on Application**

No variation will be granted within six months after the date upon which an official Comprehensive Plan for the Village of Mettawa is adopted by the Village Board, unless such variation is approved by a two-thirds vote of the Village Board or the Zoning, Planning and Appeals Commission, as the case may be.

### **11.7 SITE PLAN REVIEW**

#### **A. Purpose**

##### **NEW**

The site plan review process is intended to promote orderly development in the Village, and to assure that such development occurs in a manner that is harmonious with surrounding properties, is consistent with the Village's Comprehensive Plan, and promotes the public health, safety, and welfare. This section provides standards by which to determine the physical layout and design to achieve compatibility of uses and structures, efficient use of land, and minimization of traffic and safety hazards.

#### **B. Authority**

The Village Board reviews and issues final approval of site plans.

#### **C. Applicability**

##### **Updated**

Site plan review is required for the following:

1. Development within the O/R, H, TC, and OS Districts.
2. Any non-residential use within an R-1 or R-2 District.

#### **D. Procedure**

##### **Updated**

All applications must be filed with the Village Clerk in accordance with Section 11.3.

1. After receipt of a complete site plan, the Village Board will review the proposed site plan at a public meeting. The Village Board must approve or deny the site plan.
2. Following approval of a site plan, the Zoning Administrator will issue a building permit, provided all other provisions of applicable ordinances, statutes, and/or other regulations have been satisfied by the applicant.
3. If a site plan is denied, the Village Board will notify in writing the applicant or his/her representative of the review standards that have not been satisfied and the aspects of the proposed site plan that should be modified. No building permit will be issued for a structure until the modified site plan has received the approval of the Village Board.
4. The Village Board will evaluate the site plan based upon the review standards of this section.

## **E. Review Standards**

### **1. General Application and Purpose**

- a.** The purpose of these review standards is to provide a means to evaluate those items which may affect the physical aspects of the Village's environment and the development. Pertinent to appearance is the design of the site, building and structures, plantings, signs, detention and/or retention basins, and other site elements that are able to be observed by the public.
- b.** These standards and criteria are not intended to restrict imagination, innovation, or variety, but rather to assist in solutions that will develop a satisfactory visual appearance within the Village, preserve taxable values, and promote the public health, safety and welfare.

### **2. Siting Standards**

- a.** The site must be planned to accomplish a desirable transition of scale, style, line, and mass of buildings and signs within the site and adjoining buildings.
- b.** Without restricting the permissible limits of the district, the scale of each building or other structure must be compatible with its site and existing or anticipated adjoining buildings.
- c.** Newly installed utility services and service revisions necessitated by exterior alterations must be underground.

### **3. Compatibility Standards**

- a.** Landscape treatment, screens and materials must be used to provide a harmonious transition between buildings within the site and adjacent to the site which may vary in architectural style.
- b.** Scale of structures within the site to those adjoining the site must be made compatible by providing a gradual transition of building scale from the boundaries of the site.

### **4. Landscape and Site Treatment**

Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utility structures.

- a.** Where natural or existing topographic patterns contribute to the beauty and utility of a development, they must be preserved and developed. Modification to topography will be permitted where it contributes to good appearance.
- b.** Grades of walks, parking spaces, terraces, and other paved areas must provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
- c.** Landscape treatment must be provided to enhance architectural features, strengthen vistas and important axes, and provide shade.
- d.** Unity of design must be achieved by repetition of certain plant varieties and other materials, and by correlation with adjacent developments.
- e.** Plant material must be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance must be used.
- f.** Plant materials cannot be located where they will be susceptible to injury by pedestrian or motor traffic.
- g.** Parking areas and traffic ways must be enhanced with landscaped spaces containing trees or tree groupings. Shrubs may be used only where they will not obscure vision and will not require excessive maintenance.

- h. Exterior lighting, when used, must enhance the landscape adjacent to any permanent identification sign or, in the case of buildings, the building design and the adjoining landscape.
  - i. Lighting standards and building fixtures must be of a design and size compatible with the building and adjacent areas. Excessive brightness must be avoided.
  - ii. All lights in parking facilities must be designed and situated so as to reflect light downward and away from residential property.

## 5. Building Design

- a. Architectural style is not restricted. Evaluation of appearance of a project must be based on quality of its design and relationship to surroundings.
- b. Buildings must have harmonious scale with permanent neighboring development.
- c. Materials must have good architectural character and must be selected for harmony of buildings within the site. In any design in which the structural frame is exposed to view, the structural materials must be compatible with themselves and harmonious to their surroundings.
- d. Building components, such as windows, doors, eaves, and parapets, must have good proportions and relationship to one another.
- e. Mechanical equipment or other utility hardware on roofs, ground, or buildings as well as refuse and waste removal areas, service yards, storage yards, and exterior work areas must be screened from public view with materials harmonious with the building, or located as not to be visible from public ways.
- f. Monotony of design in single or multiple building projects must be avoided. Variation of detail, form, and siting must be used to provide visual interest. In multiple building projects, variable siting or individual buildings may be used to prevent a monotonous appearance.

**Sign provisions should be deleted. Sign code would dictate how many and where sign(s) should go (item a). Item b violates content neutrality and again its height/design should be in the sign code.**

## 6. Signs

- a. *A sign shall be permitted in front of each building.*
- b. *It shall state the name of the organization located within such building, shall be a low lying design in general harmony with the architecture of the principal building on the lot, and shall meet the other requirements therefor contained in Chapter 10 of this Code.*

## 11.8 ZONING INTERPRETATION

### NEW APPLICATION

#### A. Initiation

The Village Board, the Zoning, Planning, and Appeals Commission, or a Village property owner or his/her designee may request a zoning interpretation. All interpretation requests must be for the purpose of furthering some actual development.

#### B. Authority

The Zoning Administrator will review and make final decisions on written requests for zoning interpretations.

#### C. Procedure

All applications must be filed with the Village Clerk in accordance with Section 11.3. The Zoning Administrator must review a written request for an interpretation and render the interpretation in writing within a reasonable time. The Zoning Administrator may request additional information prior to rendering an interpretation.

## 11.9 ZONING CERTIFICATE

### A. Purpose

The purpose of a zoning certificate is to promote compliance with this Ordinance by establishing a procedure by which the Zoning Administrator may certify that an existing or proposed use of a lot or any existing or proposed structure on a lot complies with this Ordinance.

### B. Authority

Upon the request and application of an applicant, the Zoning Administrator will issue a zoning certificate.

### C. Procedure

Within 30 days of a request for a zoning certificate, the Zoning Administrator will issue a certificate, unless a longer time period of review is agreed to by the applicant and the Zoning Administrator.

### D. Expiration

Unless construction, moving, remodeling, or reconstruction of a structure is commenced or a use is commenced within six months of the date the zoning certificate is issued, a zoning certificate becomes null and void.

## 11.10 ZONING APPEALS OF ZONING ADMINISTRATOR DECISIONS

### A. Purpose

An appeal from any decision or ruling of the Zoning Administrator made in interpreting, applying, and/or enforcing the regulations contained in this Ordinance.

### B. Initiation

An appeal may be filed by any person, firm, or corporation aggrieved by said decision or ruling or by any either officer, department, board or commission of the Village. Appeals must be filed within 45 days of the decision or ruling of the Zoning Administrator.

### C. Authority

The Zoning, Planning, and Appeals Commission will hear and make decisions on zoning appeals.

### D. Procedure

All applications must be filed with the Village Clerk in accordance with Section 11.3.

1. After receipt of a complete application, the Zoning, Planning, and Appeals Commission will consider the proposed application at a public hearing. Notice for the public hearing must be provided in accordance with Section 11.3.
2. The Zoning, Planning, and Appeals Commission must confirm or overturn the Zoning Administrator's decision within 45 days of the close of the public hearing. The Zoning, Planning, and Appeals Commission may also request an additional 45 day extension from the Village Board.
3. Any party in interest may appear and be heard at the hearing held pursuant to any such application for appeal, and such appearance may be made in person, by agent (if a corporation), or by attorney.
4. In the hearing on such appeal, the Zoning, Planning and Appeals Commission will consider all matters de novo.
5. The concurring vote of five members of the Zoning, Planning and Appeals Commission is necessary to reverse any order, requirement, decision or determination of the Zoning Administrator.
6. Findings of fact based upon the evidence presented during the hearing must be included in the minutes of and final orders of decisions entered in each case on appeal, and the reasons for recommending or denying such appeal must be specified.
7. If, at the expiration of such 45 days, the Zoning, Planning, and Appeals Commission has not made a decision, it is concluded that the Zoning, Planning, and Appeals Commission has decided to deny the petition on appeal.

## 11.11 OCCUPANCY CERTIFICATE

### A. Purpose

The purpose of an occupancy certificate is to ensure there is compliance with all of the applicable provisions and requirements the Municipal Code including but not limited to this Ordinance prior to occupancy and use of a structure or land.

### B. Applicability

An occupancy certificate is required:

1. To occupy or commence a new use of any building or structure, in whole or in part, (including any nonconforming building or structure) or addition to any such building or structure erected, constructed, enlarged, remodeled, altered, reconstructed, or moved.
2. To commence a new use of any vacant land, in whole or in part.

### C. Authority

The Zoning Administrator will issue occupancy certificates.

### D. Procedure

1. An occupancy certificate will be issued when the Zoning Administrator has inspected the property and determined full and complete compliance with all of the applicable regulations of the district in which it is located, and the plans and specifications of the building permit, if applicable. However, when construction has been partially completed in accordance with plans and specifications, upon request, a temporary occupancy certificate may be issued pursuant to the following schedule:
  - a. Single-family dwelling building permits: A temporary occupancy certificate may be issued when the entire residence or residential structure or addition is completed and only exterior weather-sensitive construction and/or landscaping remains to be completed.
  - b. Commercial building permits: A temporary occupancy certificate may be issued when an area of such building or addition thereto, as shown on the plans and specifications as an "area" or "suite," have been completed and adequate safety precautions taken in accordance with the following. Where a partial occupancy certificate is requested for other than an entire building or addition to an existing building, the permittee first must provide and, after issuance of the partial occupancy certificate, continue to maintain during the remaining construction and until the final occupancy certificate has been issued for the entire building:
    - i. Fully completed ingress to and egress from the area or suite or entire floor for which the partial occupancy certificate is sought in order not to jeopardize the lives or property of the general public occupying or visiting such building.
    - ii. Complete and total quarantine and isolation of all uncompleted areas in the said building or addition for which an occupancy certificate has not been issued, which includes, but is not limited to, separate ingress to and egress from areas under construction so as to keep workmen and building materials outside of the completed areas of such building or addition.
2. Upon request, the Zoning Administrator may issue duplicate occupancy certificates and duplicate temporary occupancy certificates.



**\*\* THIS SECTION IS FOR REFERENCE PURPOSES ONLY AND  
NOT TO BE ADOPTED AS PART OF THE ORDINANCE \*\***

**APPLICATION REQUIREMENTS**

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The intent is to take the application requirements below and add them to the applications following adoption of the ordinance. This allows for easier revisions.

**a. Zoning Text Amendments**

The application for an amendment must contain the following information, and any additional information requested by the Zoning, Planning, and Appeals Commission or Village Board.

- i. The particular Article, section, or part thereof, to be amended.
- ii. A brief statement of the amendatory language sought.
- iii. Payment of filing fees.

**b. Zoning Map Amendments**

The application for an amendment must contain the following information, and any additional information requested by the Zoning, Planning, and Appeals Commission or Village Board.

- i. The present zoning of the subject property.
- ii. A brief statement of the amendment that is sought.
- iii. The legal description of the subject property.
- iv. The commonly known location (address) of the subject property.
- v. Applicants having a proprietary interest in the property for which an amendment is being sought must provide the Zoning Administrator with proof of ownership, proof of authority on behalf of the owner, or current contract to purchase or lease the subject property, since only persons owning or having interest in the subject property may file an application to amend the zoning classification of such land.
- vi. Payment of filing fees.

**c. Special Use Application**

The application for a special use must contain the following information, and any additional information requested by the Zoning, Planning, and Appeals Commission or Village Board.

- i. The present zoning of the subject property.
- ii. The special use being requested.
- iii. The legal description of the subject property.
- iv. The commonly known location (address) of the subject property.
- v. A purchase or lease of the subject property, since only persons owning or having interest in the subject property may file an application to use such land for a special use and proof of ownership, proof of authority on behalf of the owner, or current contract to purchase or lease the subject property.
- vi. Payment of filing fees.

**d. Variation Application**

The application for a variation must contain the following information, and any additional information requested by the Zoning, Planning, and Appeals Commission.

- i. The particular requirements of this Ordinance which prevent the proposed use or construction.
  - ii. The characteristics of the subject property which prevent compliance with the said requirements of this Ordinance.
  - iii. The minimum requirements which would be necessary to permit the proposed use or construction.
  - iv. The practical difficulty or particular hardship which would result if the aforesaid particular requirements of this Ordinance were applied to the subject property and/or to the proposed use or construction thereon.
  - v. A legal description of the subject property.
  - vi. The commonly known location (address) of the subject property.
  - vii. The present zoning classification of the subject property.
  - viii. A Proof of ownership, proof of authority to apply for the variation on behalf of the owner, or current contract to purchase or lease the subject property.
  - ix. Payment of filing fees.
- e. Site Plan Application**
- i. A map or maps prepared to a scale of not less than one inch to 100 feet that shows:
    - (1) Name and address of the applicant and name (if any) of the proposed structure.
    - (2) Scale and north point.
    - (3) Boundaries of the site.
    - (4) Total land area of the site.
    - (5) Topography indicating contours at intervals of not more than two feet.
    - (6) Conceptual location, elevations, and dimensions of buildings or other structures in the vicinity adjacent to the site.
    - (7) General location of on-site utilities, existing and proposed.
    - (8) General locations and dimensions of existing or proposed easements.
    - (9) Public and private rights-of-way.
    - (10) Plans for vehicular and pedestrian circulation, parking, and loading.
    - (10) Designation of any right-of-way which the applicant proposes to dedicate as public.
    - (11) Conceptual landscaping, screening and outdoor lighting plans.
    - (12) Conceptual architectural rendering showing relative size, type, scale and designs of structure (whether building or sign).
  - ii. A written statement by the applicant that consists of:
    - (1) A description of the proposed and/or existing uses located on the site, including quantity and type of residential units, if any.
    - (2) The total land area of the site, and the total floor area and ground coverage of each proposed building and/or sign.

- (3) General summary of existing and proposed easements or other burdens now existing or to be placed on the property.
  - (4) Method for handling solid waste disposal.
  - (5) The applicant's evaluation of the availability of off-site public facilities including sewer and streets.
  - (6) A description of any problems of drainage or topography, or a representation that, in the opinion of the applicant there are none.
  - (7) An estimate of the time required for completion of the structure.
- iii. In the OS District the following site plan submittals are required in lieu of items i and ii above:
- (1) Name of project and date of plan preparation.
  - (2) Scale of drawing and north arrow.
  - (3) Property boundaries.
  - (4) Where applicable, the 100 year recurrence interval floodplain and floodway delineations.
  - (5) Existing and proposed easements on the subject property.
  - (6) Adjoining public street rights-of-way, trail locations, sidewalk locations, existing and proposed driveways and curb cuts, parking, and unloading areas.
  - (7) A tree survey listing the species and size of existing trees three inches and greater in caliper.
  - (8) Locations of existing and proposed building and/or structure footprints with building and/or structure setback lines shown;
  - (9) Signs.
  - (10) Location of any existing or proposed ground signs, freestanding signs, or monument.
  - (11) Location and type of all outdoor lighting proposed to illuminate the site.
  - (12) Location of material changes to the land, including changes in grade.
  - (13) Existing land use and zoning of adjacent properties within 100 feet of the site, including: existing buildings, structures, and major features, including but not limited to, woodlands, wetlands, floodplains, steep slopes, and drainageways.
  - (14) Such other information, documents, drawings, or other materials regarding the proposed development as requested by the Village.

**f. Appeal Petitions**

The petition for an appeal must contain the following information, and any additional information requested by the Zoning, Planning, and Appeals Commission.

- i. A statement of the particular requirements of this Ordinance which are in contention.
- ii. A statement specifying the grounds for appeal.
- iii. A legal description of the subject property.
- iv. The commonly known location (address) of the subject property.
- v. The present zoning classification of the subject property.

- vi.** The minimum requirements which would be necessary to permit the proposed use or construction.
- vii.** Plats and exhibits as may be reasonably necessary for a proper determination of the question presented for review.
- viii.** Payment of filing fees.

## Article 12. Planned Unit Developments

- 12.1 PURPOSE
- 12.2 COMMON OWNERSHIP
- 12.3 REQUIRED MINIMUM SIZE
- 12.4 PUD PROCEDURE
- 12.5 DEVELOPMENT PLAN REQUIREMENTS
- 12.6 PUD REVIEW STANDARDS
- 12.7 PERMITTED MODIFICATIONS AND PUD SPECIFIC STANDARDS
- 12.8 PUBLIC IMPROVEMENTS AND GUARANTEES
- 12.9 REQUIRED COMMON OPEN SPACE
- 12.10 RECORDATION
- 12.11 CONSTRUCTION TIMING
- 12.12 AMENDMENTS TO APPROVED PUD

### 12.1 PURPOSE

#### Updated

In an effort to promote ingenuity, imagination, and design efforts on the part of owners, builders, architects, and developers and to produce developments which are in keeping with overall land use intensity and open space objectives of the Comprehensive Plan, this Article creates the planned unit development (PUD) procedure that allows for departure from the strict application of the specific zoning requirements of the district where the development is located. The intent is to:

- A. Permit flexibility to allow for a creative approach to the development of land.
- B. Accomplish a more desirable environment than would be possible through the strict application of the minimum requirements of this Ordinance.
- C. Provide for an efficient use of land facilitating a more economic arrangement of buildings, circulation systems, land use, and utilities.
- D. Enhance the appearance of neighborhoods through the preservation of natural features, the provision of underground utilities, and the provision of recreation and open space.
- E. Provide an environment of stable character compatible with surrounding areas.

### 12.2 COMMON OWNERSHIP

#### Simplified (Moved from the standards section)

- A. A planned unit development must be on a tract of land under common ownership or control. Common ownership or control means unity of ownership or legal authority to act on behalf of all owners which must be evidenced by deed, contract, management agreement, or other written guarantee.
- B. Such common ownership or control must extend to all common open space, landscaping, exterior maintenance and all other exterior common area aspects of the development.

### 12.3 REQUIRED MINIMUM SIZE

#### Simplified to make all PUDs a minimum of 10 acres in size, which reflects what in effect happens.

Any planned unit development requires a minimum of ten or more contiguous acres under common ownership.

### 12.4 PUD PROCEDURE

#### A. General

- 1. A planned unit development is a special use in all zoning districts. A planned unit development must be granted in accordance with the procedures and standards of this Article, and the special use provisions of Section 11.5. **Updated language**

2. An application for a planned unit development must be accompanied by a tentative plat of subdivision which meets the requirements of the subdivision regulations of the Village.
3. The Zoning, Planning, and Appeals Commission may recommend and the Village Board may impose additional restrictions, conditions, or development schedules that are particularly applicable to the planned unit development.

**B. Preliminary Development Plan**

**1. Action by Zoning, Planning, and Appeals Commission**

- a. After receipt of a complete application, the Zoning, Planning, and Appeals Commission will consider the proposed PUD application at a public hearing. Notice for the public hearing must be in accordance with Section 11.2.
- b. Within 45 days of the close of the public hearing, the Zoning, Planning, and Appeals Commission will prepare findings of fact and make its recommendation with respect to the proposed PUD and forward their findings and recommendation to the Village Board.
- c. The Zoning, Planning, and Appeals Commission must evaluate the application based upon the standards of this Article. The Zoning, Planning, and Appeals Commission must recommend approval, approval with conditions, or denial of the PUD application.

**2. Action by the Village Board**

- a. The Village Board must act on the application for a preliminary development plan within 90 days of receiving the report from the Zoning Planning and Appeals Commission unless the applicant agrees to a time extension. Failure of the Village Board to act within the 90 day period or the agreed-upon extended time shall constitute denial of the application.
- b. The Village Board must take action in the form of approval, approval with conditions, or denial on PUD special use applications.
- c. The Village Board may refer the preliminary development plan back to the Zoning, Planning, and Appeals Commission for further consideration and public hearing.
- d. Approval of the preliminary development plan vests no rights to the applicants other than the right to submit a final development plan.

**C. Final Development Plan**

**1. Timeframe**

- a. Within six months following the approval of the preliminary development plan, the applicant must initiate the second stage of their application process by filing with the Zoning, Planning, and Appeals Commission a final development plan and final subdivision plat.
- b. Upon written request by the applicant, the Zoning, Planning, and Appeals Commission, for good cause, may extend the period for filing the final development plan for a period not to exceed an additional six months.

**2. Action by Zoning, Planning, and Appeals Commission**

- a. Within 60 days after the proposed final development plan and all other necessary documents is filed, the Zoning, Planning, and Appeals Commission must recommend approval, approval with modification, or disapproval, and transmit its findings of fact and recommendation to the Village Board. Failure of the Zoning, Planning, and Appeals Commission to act within the 60 day period constitutes a recommendation of denial of the final development plan.
- b. If the proposed final development plan does not include any changes from the approved preliminary development that exceed the criteria of this section, the Zoning, Planning, and Appeals Commission may review the proposed final development plan without conducting a public hearing.

c. If the proposed final development plan includes changes from the approved preliminary development plan which exceed the criteria of this section, the Zoning, Planning, and Appeals Commission must conduct a new public hearing in order to review the proposed final development plan.

d. If changes are required by engineering or other circumstances not foreseen at the time the preliminary development plan was approved, minor changes in the location, siting, and height of structures, streets, driveways, and open spaces may be authorized by the Zoning, Planning, and Appeals Commission to be included in the final development plan in accord with the following procedure without additional public hearings. No change authorized by this subsection may cause any of the following:

- i. A change in the use or character of the development.
- ii. An increase by more than 1% in the overall land coverage of structures.
- iii. An increase in floor area or, in the case of residential areas, an increase in density.
- iv. An increase in the problems of traffic circulation and public utilities.
- v. A reduction of more than 1% in approved common open space.
- vi. A reduction in off-street parking and loading spaces.
- vii. A reduction in required pavement widths.

## **2. Action by the Village Board**

a. Upon receipt of the Zoning, Planning, and Appeals Commission recommendation, the Village Board may by ordinance approve such planned unit development granting the applicant a special use to proceed in accordance with the final development plan and any supporting documents, subject to any additional conditions or restrictions upon such terms the Village Board deems necessary or appropriate to protect and promote the public health, safety, and welfare.

b. The ordinance must include all standards, conditions, or restrictions which the Village Board deems necessary to effectuate the proposed planned unit development and protect the public interest.

c. In addition to the restrictions and conditions imposed in the ordinance approving the planned unit development, the applicant shall execute such agreements as necessary to guarantee the maintenance of public and private open space.

- i. Such agreements may include the conveyance of such open space to the Village or other municipal corporation, a not-for-profit corporation, or other legal entity that holds the open space for the benefit of the public.
- ii. In the event a private not-for-profit corporation or similar entity is established for the purpose of maintaining common open space, the Village may require that said corporation provide maintenance and improvements of such common open space and have the right to exact from the property owners the cost of such maintenance or improvement in a legally enforceable manner.

## **D. Subdivision Review Required**

1. The applicable subdivision review required under the Village subdivision regulations must be carried out as an integral part of the review of a planned unit development permit under this Article. The plans required must be submitted in a form which substantially satisfies the requirements of the subdivision regulations for preliminary and final plat approvals.

2. The submission of subdivision applications for the whole, a part, or parts of the overall planned unit development permit as indicated by phases in the development plan is permitted.

3. If any provisions of this Ordinance and the subdivision regulations are in conflict, the more restrictive or detailed requirements control, unless specifically waived or altered by the Village Board upon recommendation of the Zoning, Planning, and Appeals Commission.

4. If a subdivision is created as a part of the processing of a planned unit development, the normal subdivision processing fee required by the Village subdivision regulations must be submitted to the Village, as well as the fee for a special use permit required by this Ordinance.
5. The on-site internal street system, together with the provision and construction of public improvements, must be in compliance with the requirements and standards set forth in the Village subdivision regulations. The Village Board for good cause shown, upon recommendation of the Zoning, Planning, and Appeals Commission, may permit such changes or alterations of such standards as are consistent with the spirit and intent of this Ordinance.

## 12.5 DEVELOPMENT PLAN REQUIREMENTS

### A. Preliminary Development Plan

An application for a planned unit development must be accompanied by preliminary architectural drawings as well as by a preliminary development plan, which contains the following:

#### 1. Statement of Objectives

A statement of the planning objectives to be achieved by the particular design approach proposed by the applicant is required. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant. This statement should also describe the public benefits that will be achieved through the proposed planned unit development that would otherwise not result from a conventional type of development or subdivision of the site.

#### 2. Statement of Ownership and Proposed Use

A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the land areas or structures and the proposed use thereof is required. A statement and documentation verifying that the applicant has, or will have, ownership and control over all land included in the proposed planned unit development is also required.

#### 3. Quantitative Summary

A quantitative summary including, but not limited to, the following is required. If the development is to be phased, the quantitative summary must also be broken down into the phase components.

- a. Area of the subject parcel in acres and square feet.
- b. In the case of residential uses, residential density.
- c. Total area and footprint area of principal buildings in square feet.
- d. Total area and footprint area of accessory buildings in square feet.
- e. Area of streets in square feet.
- f. Area of exterior parking facilities in square feet.
- g. Number of parking spaces.
- h. Lot coverage (in percentage of entire parcel) of principal buildings, accessory buildings, parking areas, streets, and recreational facilities, individually and collectively.
- i. Area of open space on-site in square feet.
- j. Area of commonly owned and maintained open space in square feet.
- k. In the case of residential uses, maximum residential density that would be achievable through a conventional subdivision of the site.
- l. A preliminary list of the variations from the underlying zoning that would likely be required to construct the planned unit development as proposed.



#### 4. Open Space Statement

A statement is required describing why the area for usable common open space was chosen, the unique advantages it offers, and how it is envisioned that residents or patrons will utilize the space either actively or passively.

#### 5. Traffic Study

A recent traffic survey prepared by a qualified expert setting forth and analyzing the effect upon traffic in and outside the Village is required whenever the application contemplates a residential planned unit development of eight or more dwelling units or a non-residential planned unit development of 10,000 or more square feet. Such survey is not limited to the effect on adjacent streets but must extend to all of the surrounding areas affected and indicate the anticipated points of origin and the direction, amount, and density of traffic flow to, from, and within the proposed planned unit development.

#### 6. Covenants

- a. The developer must establish an owners' association through a declaration of covenants and easements which will be recorded and run with the land and be binding upon any purchaser of any lot or dwelling unit in the planned unit development. The declaration must be submitted to the Zoning, Planning, and Appeals Commission for review and to the Village Attorney for final approval. Such declaration must include, but is not limited to, provisions requiring:
  - i. The developer to convey the private streets or roads, detention or retention facilities, and common areas to the owners' association.
  - ii. The owners' association to maintain and repair any and all private streets or roads, detention or retention ponds, and common areas and any and all appurtenances thereto.
  - iii. That, if the owners' association fails to maintain and repair any and all private streets or roads, detention or retention ponds, and common areas, the Village may, but is not required to, enter upon the property to maintain and repair such items and the owners' association will pay all associated costs.
- b. The Village may also require the establishment of a special service area to ensure maintenance of the common areas.

#### 7. Maps and Illustrations

##### a. Existing Site Conditions

A map is required that illustrates existing site conditions including topography, water-related features, vegetation, wetlands, ravines, floodplains, unique soils conditions, and other environmental data including a tree survey.

##### b. Surrounding Conditions

A map is required that illustrates the land use and environmental conditions of the surrounding neighborhood within a 500 foot radius around the subject site, particularly illustrating the adjacent lots showing their lot lines, structures, setbacks, and driveways, as well as nearby streets.

##### c. Cross Sections

A minimum of two cross sections are required through the entire site illustrating the bulk and heights of proposed structures in relation to the topography, vegetation, and surrounding structures.

##### d. Utility and Drainage Plan

A plan is required that illustrates existing and proposed utilities and drainage facilities. Stormwater detention and flood plain compensatory storage facilities must be included if required by Village ordinances.

##### e. Circulation Plan

A plan is required that illustrates the circulation of all vehicles, including emergency vehicles, internal to the site, consistent with approved engineering and design standards, that illustrates the relationship of the development's internal private streets to the street plan in the Comprehensive Plan.

##### f. Landscape, Tree Preservation, and Grading Plan

A plan is required that illustrates the earth moving, if any, to be done on the site, together with a preliminary plan for the enhancement of the vegetation on the site, including a tree preservation plan.

**g. Subdivision Sketch Plan**

A sketch plan is required that illustrates the maximum number of lots and/or dwelling units that could be achieved through a conventional subdivision of the site including the location of public street(s) that would be required to provide access to such lots or dwelling units. The design and layout of all lots and streets in such subdivision sketch plan must comply with all standards and requirements found in this Ordinance and the subdivision regulations. The purpose of said sketch plan is to assist in determining the maximum number of lots or dwelling units that may be located in the proposed planned unit development.

**8. Other Information**

The Zoning, Planning, and Appeals Commission may require other materials to be included in a preliminary development plan. These may include market studies, traffic studies, soil borings, applicable approvals from other agencies, and all other items that may be reasonably required.

**B. Final Development Plan**

1. The final development plan must contain in final form all of the information required in the preliminary development plan together with revisions, if any, along with such other documents as may be necessary to implement the plan or to comply with all applicable requirements of this Ordinance.
2. The final development plan must include the following:
  - a. Phasing Program: A document describing any proposed phasing program of the development for all structures, recreational and other common facilities, and open space improvements, including time schedule for commencement and completion dates of construction of each phase. Intermediate phases cannot exceed overall project density and a pro rata allocation of common open space must be made as each phase is developed.
  - b. Common Open Space Agreement: A copy of the formal agreement with a public agency or private association for the ownership and maintenance of the common open space is required.
  - c. Plats for Recording: A copy of the subdivision plat, plat of dedication, or plat of vacation that is a necessary part of the planned unit development is required.
  - d. Covenants: Restrictive covenants, in a form acceptable to the Village Attorney, limiting development of and construction upon the tract as a whole to such development and construction as complies with the final development plan and the special use granted by the Village Board, which document must include, but is not limited to, provisions granting the Village a right to enforce same as well as its stormwater management regulations.

**12.6 PUD REVIEW STANDARDS**

**This combines standards from “standards” and “design standards” to be clear on what is being evaluated. Specific dimension provisions have been moved to the next section.**

In addition to the standards applicable to special uses (Section 11.4), as provided in Article herein, the Zoning, Planning, and Appeals Commission must also find:

- A. The planned unit development conforms to the intent and specific proposals of the Comprehensive Plan.
- B. The planned unit development is responsive to a demonstrated need within the community.
- C. The uses permitted in the planned unit development must conform to those in the zoning district where the planned unit development is located and must be compatible to each other and with existing land use in the surrounding area. Uses are deemed compatible if they are so designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected and such uses will not cause appreciable injury or damage to other property in the area in which it is located.
- D. The planned unit development includes a traffic plan that provides ingress and egress designed to minimize traffic congestion in the public streets outside the PUD and facilitate the free flow of traffic, both vehicular and pedestrian, within the PUD. The streets and other traffic thoroughfares, public or private, provided in such planned unit development must conform with the minimum requirements for streets and public ways of Village ordinances.

- E. The landscape is preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes must be in keeping with the general appearance of neighboring developed areas.
- F. Proposed structures are related harmoniously to the terrain and to existing structures in the vicinity and have a visual relationship to the existing nearby structures. The achievement of such relationship may include the creative enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings.
- G. Exposed storage areas, trash, and garbage retainers, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures are accounted for in the design of the project and made as unobtrusive as possible. They may require additional setbacks, special planting, or other screening methods as reasonably required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- H. The development provides reasonable visual and acoustical privacy for each building and dwelling unit. Fences, insulation, walls, barriers and landscaping must be used as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.
- I. In conformance with the Lake County Watershed Development Ordinance, proper site surface drainage must be installed so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Surface water in all paved areas must be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic.

## 12.7 PERMITTED MODIFICATIONS AND PUD SPECIFIC STANDARDS

### A. Permitted Modifications

1. The off-street parking and loading, yard, setback (including scenic easements), lot size, lot shape, FAR, open space, maximum lot coverage, and site plan review regulations of the district in which the site is located may be modified in conjunction with a planned unit development, provided the Zoning, Planning, and Appeals Commission determines that the site plan complies with the spirit and intent of this Article.
2. In addition, the height and sign regulations of the O/R, TC, and H Districts may be modified in conjunction with a planned unit development, provided the Zoning, Planning, and Appeals Commission and/or Village Board determines that the site plan complies with the spirit and intent of this Article. Any such modifications must be explicitly indicated in the site plan or otherwise the normal district regulations control.
3. A permitted modification may only be granted if the applicant demonstrates a substantial public benefit to the Village. Design characteristics and amenities to be considered in this determination include, but are not limited to, the following:

**This is the new provision described within the Tech Report, where a public benefit is required in exchange for modifications to the district standards.**

  - a. Use of sustainable design and architecture, such as green roofs, white roofs and other energy efficient design concepts, new building technologies, and approval of buildings as Leadership in Energy and Environmental Design (LEED) or LEED-equivalent structures.
  - b. Community amenities including plazas, formal gardens, places to congregate, outdoor seating, public art, and pedestrian and transit facilities.
  - c. Preservation of natural areas and site design that is sensitive to environmental features.
  - d. Additional public infrastructure improvements in addition to the minimum required by the planned unit development, such as new or repaved streets, provision of bicycle paths, installation of gutters and sewers, and traffic control devices to improve traffic flow.

**B. Height in Planned Unit Developments**

1. That the maximum height permitted in the planned unit development, exclusive of steeples, belfries, spires, chimneys, smoke stacks, cooling towers, elevator bulkheads, parapet walls, and building equipment penthouses cannot exceed the maximum height permitted for the district where the PUD is located.
2. For buildings that do not exceed 30 feet in height, the minimum horizontal distance between buildings, including their appurtenances, of one story, two stories, three stories, or combinations thereof, must be a minimum of 15 feet.
3. For buildings of 30 feet or more in height, the space between buildings must be equal to the height of the tallest building from which the measurement is taken.

**C. Required Yards in Planned Unit Developments**

1. The only required yards are adjacent to the periphery of the planned unit development and must be at least equal in width or depth to the greater of the required yard for real property adjacent to the planned unit development or a distance not less than the height of the closest building to such lot line.
2. In the event the PUD is located adjacent to real estate owned by the Illinois Toll Highway Authority, the yard adjacent to such Toll Highway Authority real estate is 50 feet. No other yards are required.

**D. Residential Density**

1. In the case of a residential development, residential density of the planned unit development cannot exceed in number of dwelling units the maximum number of lots that could be achieved through a conventional subdivision of the site as demonstrated by the subdivision sketch plan.
2. When the development is located in more than one zoning district, the number of allowable dwelling units must be separately calculated for each portion of the development that is in a separate zoning district. Thereafter the combined total of all dwelling units so calculated as allowable may be constructed and distributed within the entire planned unit development.

**12.8 PUBLIC IMPROVEMENTS AND GUARANTEES**

- A.** All public improvements and facilities to be provided under the provisions of the planned unit development must be located underground and completed for each phase prior to the issuance of occupancy permits within any such phase and in accordance with the phase plan submitted as part of the application.
- B.** The installation and completion of such improvements must be guaranteed by the deposit in escrow of the amount equal to 110% of the Village Engineer's estimate of the cost of improvements or subdivision bonds or letter of credit in the form and as approved by the Village Attorney.
- C.** At the time of completion and acceptance of the public improvement, in addition to guarantees for the installation of public facilities, the Village requires a deposit in cash or other suitable security of an amount equal to 15% of the estimated cost of such improvements.
- D.** This security will be held for the purpose of guaranteeing the satisfactory operation and maintenance of the public facilities constructed within the planned unit development for a period of 24 months following completion of construction of the entire public facilities by the developer and acceptance by the Village of said public facilities.
- E.** The security deposit herein required will be refunded at the expiration of said 24 month period if no defects have developed in the public improvements; provided, however, that the Village may utilize such deposit for the purpose of correcting defects during said period, in which case the Village is required to return only that portion of the guarantee remaining on deposit.

## 12.9 REQUIRED COMMON OPEN SPACE

Each residential planned unit development must have a site plan that contains at least 20% usable common open space, unless modified by the Zoning, Planning, and Appeals Commission in accord with this Ordinance.

### A. Ineligible Area

Usable common open space does not include:

1. Areas reserved for the exclusive use or benefit of an individual occupant.
2. Dedicated streets and other public rights-of-way.
3. Vehicular drives, private streets, and parking, loading, and storage areas.
4. Strips of land less than ten feet wide.
5. Stormwater detention and retention areas and wetlands.

### B. Access

Primary (abutting) access from such common open space to each building site is not required. However, convenient access through a permanent easement must be provided and perpetually guaranteed to all residents not granted primary access.

### C. Recreational Facilities

The only recreational facilities permitted within any common open space tract are those which are graphically shown on the face of the site plan at the time of approval by the Village Board. However, the site plan may be amended through the procedures specified in this Article.

### D. Character and Quality

No proposed area on a site plan may be accepted as usable common open space unless its character and quality have been approved by the Zoning, Planning, and Appeals Commission. When making its determination, the Zoning, Planning, and Appeals Commission must consider the following:

1. The size and character of the structures to be constructed within the planned unit development.
2. The character of surrounding development.
3. The topography and existing amenities of the proposed area, including trees, groundcover, and other natural features.
4. The manner in which the proposed area is to be improved and maintained for recreational or amenity purposes.
5. The existence of public parks or other public recreational facilities in the vicinity and the relationship thereto.

### E. Ownership and Maintenance

1. All land shown on the final site plan as common open space must be conveyed to a private association or similar organization formed by a condominium agreement, townhouse declaration, indenture, restrictive covenant, or other binding agreement acceptable to the Village Board.
2. The legal instrument(s) creating such association or organization must specify that the common open space and related authorized improvements will be maintained according to the criteria enumerated in this Article, and must include a provision granting the Village a right to enforce the same.

## 12.10 RECORDATION

- A. The specific ordinance granting a special use in the nature of a planned unit development must contain a legal description of the property subject to the planned unit development.
- B. The ordinance must be recorded in the Office of the Recorder of Deeds of Lake County, Illinois, together with all such restrictive covenants as may be required by the Village Board.
- C. Restrictive covenants must be in a form which will effectuate the development of the subject property in accordance with the planned unit development and provide for the maintenance and continued protection of all public open space and common open space and all privately owned common open space.
- D. In addition to all other interested parties, the Village may require that said covenants must run to and be for the benefit of the Village and extend to the Village the right to enforce said covenants by any appropriate action in law or in equity.

## 12.11 CONSTRUCTION TIMING

### A. Timeframe

- 1. Except in cases involving a written agreement to the contrary, the construction of a planned unit development permit must commence within 12 months from the date of the passage of the authorizing special use permit ordinance by the Village Board and must proceed to completion in accordance with the phasing program, if any, contained therein.
- 2. Upon application by a permittee of a planned unit development, the Village Board may extend the time for the commencement of construction as follows:
  - a. If a delay, or anticipated delay, is caused by governmental action without fault on the part of the developer, an extension may be granted for a period not longer than the period of the governmental delay.
  - b. For good cause shown, an extension may be granted for a period of time as the Village Board deems appropriate but not exceeding 12 months exclusive of extensions authorized under item a above.

### B. Establishment of Common Open Spaces and Facilities

The establishment of common open space and construction of public or common recreational facilities shown on the final development plan together with the construction of other nonresidential structures must proceed substantially in accordance with the phasing program approved as part of the final development plan.

#### 1. Occupancy Permits

No occupancy permit for any structure in the development will be issued until a pro rata share of the common open spaces and facilities required in compliance with the phasing plan have also been placed in a condition suitable for use or occupancy.

#### 2. Developer Responsibility

The developer must maintain control of all common open spaces and facilities, and be responsible for required maintenance, until the same are formally turned over to a public agency or private association. The Village Board may determine when the common open spaces and facilities must be formally turned over, based upon the status of the development, when this item is not adequately addressed in the phasing program.

### C. Revocation of Permits

- 1. The Village Board may at any time request written reports on the progress and development of the proposed planned unit development.
- 2. If the Village Board is satisfied that the permittee has abandoned the development of the proposed planned unit development, or failed to follow the final development plan, it may hold a public hearing for the purpose of considering the revocation of all permits issued and action taken.

3. Written notice of said hearing must be sent by certified mail (return receipt) to the permittee at the business address stated in the application for the planned unit development or such other address provided by the permittee in writing. Publication of said hearing must also be given in accordance with the provisions of this Ordinance.
4. If the Board determines that there has been abandonment of the proposed planned unit development project or a failure to follow the final development plan, it may then revoke the planned unit development special use permit.

## **12.12 AMENDMENTS TO APPROVED PUD**

- A. Any substantial change in character of any existing planned unit development requires the adoption of an ordinance that makes such changes and modifications in said planned unit development as may be approved by the Village Board.
- B. Substantial change is defined as a deviation from the approved planned unit development ordinance that:
  1. Changes the general character of the planned unit development.
  2. Changes the density in any residential planned unit development.
  3. Causes a relocation of principal or accessory structures of more than five feet.
  4. Causes a relocation of parking, loading or recreation areas by more than five feet or a reduction in parking.
  5. Causes a relocation of traffic facilities or street pattern.
  6. Increases the land coverage of buildings and parking areas.
  7. Increases the gross floor area of buildings or the number of dwelling units.
  8. Changes the building materials or height of any principal building or accessory structure.
  9. Reduces the amount of approved open space, landscaping or screening.
  10. Does not comply with the requirements of the district within which the planned unit development is located.
  11. Deviates from the conditions and restrictions of the special use/planned unit development ordinance.
  12. Changes the installation of any public utilities.
- C. The amendatory ordinance may be adopted only after a public hearing by and recommendation of the Zoning, Planning, and Appeals Commission in like manner as is required herein for the adoption of an original planned unit development ordinance.
- D. The Village President may approve a change to the final development plan in the construction of the planned unit development that does not constitute a substantial change from the specific planned unit development ordinance. Before any changes are approved by the Village President become effective, however, the Village President must within seven days notify in writing the Village Board of such changes and the Village Board will, at their next regular meeting, ratify the action of the Village President or deny such changes until an amendatory ordinance has been adopted in accordance with the provisions of this section.
- E. Nothing in this section may be construed to indicate that the Village Board must pass an amendatory ordinance to grant any changes requested.





## Article 13. Nonconformities

- 13.1 GENERAL APPLICABILITY
- 13.2 NONCONFORMING USES
- 13.3 NONCONFORMING LARGE STABLES
- 13.4 NONCONFORMING STRUCTURES
- 13.5 NONCONFORMING LOTS OF RECORD
- 13.6 NONCONFORMING SITE ELEMENTS

**THIS IS AN UPDATE OF THE NONCONFORMITIES SECTION - THIS SIMPLIFIES APPLICATION FROM THE CURRENT REGULATIONS BUT WITH THE SAME CONTROLS/INTENT**

**USES AND STRUCTURES HAVE BEEN SEPARATED**

**THE PROPOSED AMENDMENT LANGUAGE REGARDING "AMORTIZATION" HAS NOT BEEN INCLUDED AS IT IS INACCURATE**

**LARGE STABLES HAVE BEEN MADE THEIR OWN SECTION**

### 13.1 GENERAL APPLICABILITY

#### A. Authority to Continue

Any nonconforming use, structure, lot, or site element that legally existed as a nonconformity as of the effective date of this Ordinance, and any use, structure, lot, or site element that has been made nonconforming as of the effective date of this Ordinance, and any subsequent amendments, may continue, subject to the provisions of this Article, so long as it remains otherwise legal. Any use, structure, lot, or site element that is illegal as of the effective date of this Ordinance, remains illegal.

#### B. Burden on Property Owner

The burden of establishing the legality of a nonconformity under the provisions of this Ordinance is the responsibility of the property owner of the nonconforming use, structure, lot, or site element, or the operator of the use.

#### C. Safety Regulations

All police power regulations enacted to promote public health, safety, and welfare including, but not limited to, all building, fire and health codes apply to nonconformities.

### 13.2 NONCONFORMING USES

#### A. Expansion

A nonconforming use of a structure or land cannot be expanded, extended, enlarged, added to or increased in intensity. Such prohibited activity includes additions or enlargements of any structure devoted to a nonconforming use, and any expansion, extension, or relocation of a nonconforming use to any other structure, any portion of the floor area, or any land area currently not occupied by such nonconforming use.

#### B. Relocation

A nonconforming use of a structure or land cannot be relocated, in whole or in part, to any other structure or location on the same lot. The nonconforming use may be relocated to another structure or lot only if the use conforms to all regulations of the zoning district where it is to be relocated.

#### C. Change of Use

A nonconforming use can only be changed to a use allowed within the zoning district where it is located. When a nonconforming use has been changed, in whole or in part, to an allowed use, the whole or part that conforms cannot be changed back to a use that is not allowed in the district. A change of use occurs when an existing nonconforming use has been terminated and another use has commenced. In addition, any change in use to a use prohibited by the provisions of this Ordinance is deemed to be an abandonment of the previously existing nonconforming use.

#### D. Abandonment

1. If a nonconforming use is discontinued for the time periods in this section, such discontinuance constitutes prima facie evidence that the nonconforming use has been abandoned and the nonconforming use must be terminated. Any subsequent use or occupancy of such land or structure must comply with all regulations of the zoning district in which the structure or land is located.
2. A period of discontinuance caused by acts of god are not included in calculating the length of discontinuance or abandonment for this section.
3. When a nonconforming use is offered for sale, such sale period is not included in calculating the length of discontinuance for this section so long as all equipment, building design, and similar use infrastructure is maintained in working condition during the sale period. However, when land upon which a nonconforming use is located is offered for sale, but the nonconforming use is not also offered for sale, such sale constitutes prima facie evidence of abandonment of the nonconforming use and the period will be included in calculating the length of discontinuance.
4. The following periods of discontinuance constitute abandonment:
  1. Nonconforming use within an enclosed structure: Discontinued or abandoned for 24 months
  2. Nonconforming use on a lot, no structures: Discontinued or abandoned for 90 consecutive days or for a total of six months during any one year period.

#### E. Damage or Destruction

1. In the event that any structure that is devoted in whole or in part to a nonconforming use is structurally damaged or destroyed through no fault of the property owner or tenant, the nonconforming use may be re-established provided that no new nonconformities are created and the degree of the previous nonconformity is not increased.
2. If the structure containing the nonconforming use is a nonconforming structure, the structure may only be rebuilt, restored, repaired, or reconstructed in accordance with Section 13.4.
3. However, if a building permit is not obtained within one year of the date of damage or destruction, then the nonconforming use may not be reestablished unless it conforms to all regulations of the zoning district in which it is located, including use. This time period to obtain a building permit may be extended based on evidence showing good reason for the delay.
4. This section does not apply to large stables, which are controlled by Section 13.3.

### 13.3 NONCONFORMING LARGE STABLES

Large stables, as defined in Article 2, previously authorized as a special use prior to adoption date are allowed to continue subject to these standards of this section.

- A. As of adoption date, no new large stables are allowed in the Village.
- B. Large stables legally existing as of adoption date are considered nonconforming uses and allowed to continue subject to the following in accordance with this section.
- C. Large stables cannot be altered unless the alteration is necessary and part of the care or maintenance of the existing large stable and existing related structures and does not enlarge or intensify the existing large stable and/or existing related structures.
- D. Improvements allowed by a special use permit approved prior to adoption date may be constructed and used, and a large stable established prior to adoption date may continue to be used subject to the conditions and restrictions of the special use ordinance. In the case of conflict, the conditions and restrictions of the special use ordinance control over the requirements of this section. Variations to the standards of this section are prohibited.

1. The owner of the premises resides upon the premises.
2. Facilities for horses must meet the following:
  - a. An inside stall is provided for each horse.
  - b. Box stalls are available for all horses stabled. Box stalls must be a minimum size of 11.5 feet by 11.5 feet.
  - c. All stalls must have feeders and water available.
  - d. At least one working and unexpired fire extinguisher is required for every five horses housed, and must be located in the structures where the horses are housed.
3. No more than one horse stall per 40,000 square feet of contiguous lot area is permitted. The maximum number of horses cannot exceed the number of horses approved by the special use. For the purposes of calculation, this may include contiguous land located outside the Village's corporate limits.
4. Stable operations must be conducted as follows:
  - a. The following are prohibited:
    - i. Livery stables are prohibited.
    - ii. Horse shows are prohibited. This prohibition 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.
    - iii. Horse clinics are prohibited. This prohibition 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.
    - iv. Horse demonstrations and exhibitions are prohibited. This prohibition 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.
  - b. Instruction of riders in horsemanship must 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 riders and horses are permitted.
  - c. Stalls must be cleaned daily. Manure and used bedding must 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. The containers must be located at least 250 feet from any dwelling not on the lot where the stable is located and 100 feet from any lot line. A pile containing putrescible refuse and/or manure is prohibited and cannot be composted. Spreading of manure is prohibited.
  - d. Grain and other feeds must be stored to minimize the presence of mice, rats, and other vermin.

## 13.4 NONCONFORMING STRUCTURES

### A. Maintenance

Normal maintenance and repair may be performed on any nonconforming structure. No repairs or reconstruction are permitted that would create any new nonconformity or increase the degree of the previously existing nonconformity.

### B. Structural Alterations

Structural alterations are permitted only in the following situations:

1. When the alteration is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with protecting public safety.
2. When the alteration will eliminate the nonconformity.
3. When the alteration will not create any new nonconformity or increase the degree of any existing nonconformity. For example, if a structure is nonconforming in terms of the required front setback (i.e., does not meet the required minimum), the structure may add a rear addition if it meets all other dimensional regulations of the district.

### C. Relocation

A nonconforming structure cannot be relocated, in whole or in part, to any other location on the same lot unless such relocation will make the structure conforming. A nonconforming structure may be relocated to another lot if the structure will conform to all regulations of the zoning district where it is relocated.

### D. Damage or Destruction

1. In the event that any nonconforming structure is damaged or destroyed to the extent of 50% or more of its replacement value at the time, then the structure may not be restored or rebuilt unless the structure, including foundation, conforms to all regulations of the zoning district in which it is located.
2. When a nonconforming structure is damaged or destroyed to the extent of less than 50% of the replacement value at the time, it may be repaired and reconstructed provided that no new nonconformities are created and that the existing degree of the nonconformity is not increased. A building permit must be obtained for such rebuilding, restoration, repair, or reconstruction within six months of the date of damage or destruction and the construction completed within one year of the date the permit is issued. In the event that the building permit is not obtained or construction not completed within the timeframes, then the structure cannot be restored unless it conforms to all regulations of the district in which it is located.
3. The replacement value of the structure is based on: 1) assessed value or an appraisal within the last two years or, if that is not available; 2) the amount for which the structure was insured prior to the date of the damage or destruction; or, 3) an alternative method determined acceptable by the Village.

### E. Exemptions

Whenever a lawfully existing structure otherwise conforms to the Ordinance regulations but is structurally nonconforming only in the particular circumstances described below, the structure is deemed conforming in regard to that particular element:

1. In any district, when a given single-family dwelling or an accessory structure has met all of the requirements of the district within which it was located at the time it was constructed, and the nonconformity is caused solely by a changed district regulation. However such building or lot cannot be altered in any way so as to increase the number of dwelling units on the lot and provided further that a minimum of 80,000 contiguous square feet is necessary in the event a horse is stabled on any lot not meeting the minimum lot area requirements of this Ordinance.
2. In any nonresidential district, where the existing structure is closer to the lot line of an adjacent residential district than that specified in the regulations for the district in which it is located. This deemed conforming provision applies only to structures that were built in compliance with the Ordinance at the time or where a variance was approved. Structures built in violation of the Ordinance at the time are not deemed conforming.

3. In any district, an existing building or structure which has been placed on the National Register of Historic Places and/or designated by the Village Board as a Mettawa Landmark or Historic District and is nonconforming in any respect with the standards prescribed in this Ordinance.

### 13.5 NONCONFORMING LOTS OF RECORD

#### A. Use

A nonconforming lot of record may be used for a single-family dwelling so long as construction of the single-family dwelling meets all applicable dimensional regulations of the district in which it is located, with the exception of that lot dimension requirement that renders it nonconforming.

#### B. Lot Division

No division of a conforming or a nonconforming lot is permitted that creates a nonconforming lot and/or renders a lot or lots remaining nonconforming.

#### C. Common Ownership Limitation

When two or more parcels of land that may contain a lot or lots of record are contiguous and one or more of such parcels lack adequate lot area or lot width per the zoning district where it is located, the parcels must be maintained and used as one zoning lot for such use in the event such parcels have been held in contiguous ownership at any time after November 7, 1984 or the date of adoption of any amendment prescribing lot area or dimension requirements with which such parcel does not comply, whichever is later.

### 13.6 NONCONFORMING SITE ELEMENTS

#### NEW

#### A. Maintenance

Normal maintenance and incidental repair to a nonconforming site element may be performed. However, no repairs or reconstruction are permitted that would create any new nonconformity or increase the degree of the previously existing nonconformity.

#### B. Required Conformance

##### 1. General

All nonconforming site elements must be brought into conformance when the following occurs:

- a. A new principal building is constructed on a site. This includes construction of a second principal building on the site.
- b. An existing principal building is increased in building footprint square footage by 30% or more.

##### 2. Nonconforming Parking Lot Landscape

When a parking lot of 15 or more spaces does not conform to required parking lot landscape requirements, it must be brought into conformance when such parking lot is fully reconstructed or expanded by an additional 50% or more spaces (viz., the total number of spaces after expansion is 150% or more of the spaces prior to expansion). Resealing, repaving, resurfacing, and/or re-striping of an existing parking lot is not considered reconstruction.

##### 3. Nonconforming Exterior Lighting

For exterior lighting, when 25% or more of exterior lighting fixtures are replaced, all exterior lighting on the site must be brought into conformance. This requirement is calculated by dividing the as installation of new lighting posts and/or non-post mounted lighting fixtures by the total lighting installed, by the type of mounting. For example, if over 25% of the wall-mounted fixtures are to be replaced, all wall-mounted fixtures must be brought into conformance while nonconforming freestanding fixtures may remain.



## Article 14. Enforcement

- 14.1 GENERAL ENFORCEMENT AUTHORITY AND DUTY
- 14.2 VIOLATIONS
- 14.3 CIVIL AND ADMINISTRATIVE ENFORCEMENT
- 14.4 PROCEEDINGS TO PREVENT VIOLATION AND STAY
- 14.5 PENALTIES

**THIS SECTION HAS BEEN UPDATED BY THE VILLAGE ATTORNEY**

### 14.1 GENERAL ENFORCEMENT AUTHORITY AND DUTY

The Zoning Administrator, or his/her designee, has primary responsibility for enforcing this Zoning Ordinance. Upon finding the existence of any violation of this Ordinance, the Zoning Administrator has the authority and duty to take or direct all actions necessary or appropriate to abate and redress such violation.

### 14.2 VIOLATIONS

Unless otherwise expressly allowed by this Ordinance, any violation, including but not limited to the following, may be subject to the remedies and penalties as set forth in this Ordinance:

- A. To use land or buildings in any way not consistent with the requirements of the Ordinance.
- B. To erect a building or structure in any way not consistent with the requirements of the Ordinance.
- C. To engage in the use of land, a building, or a structure or any other activity requiring one or more approvals or permits without having obtained such approvals or permits.
- D. To engage in the use of land, a building, or structure or any other activity requiring one or more permits or approvals in a manner inconsistent with such permit or approval or any conditions imposed by such permit or approval.
- E. To violate the terms of any permit or approval granted under this Ordinance or any condition imposed by the permit or approval.
- F. To violate any lawful order issued by a person or entity under this Ordinance.
- G. To continue to violate this Ordinance after receipt of notice of a violation.

### 14.3 CIVIL AND ADMINISTRATIVE ENFORCEMENT

#### A. Stop and Cease and Desist Orders

Upon finding the existence of any violation of this Ordinance, the Zoning Administrator will notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including but not limited to the discontinuance of any illegal use of land or structures, the removal of illegal structures, additions, or alterations, and/or the discontinuance of illegal work being done.

#### B. Legal Actions

The Zoning Administrator will exercise all the powers authorized by the statutes of the State of Illinois and Village codes and ordinances to ensure compliance with, or to prevent or abate any violation of, the provisions of this Ordinance and will, where necessary or appropriate, institute or cause to be instituted by the Village Attorney in the name of the Village any and all actions, legal or equitable, including appeals, that may be required for the enforcement of this Ordinance.

#### C. Abatement and Liens

The Zoning Administrator may order any work necessary to abate any violation of this Ordinance and will assess the cost of such work to the lot owner. Upon the failure of the owner to pay such cost, the Zoning Administrator will file a lien for such costs and for all costs of collection against the lot in question.

**D. Revocation of Rezoning, Permits, Variations, or Approvals**

The violation of any provision of this Ordinance, or of any permit or approval granted pursuant to this Ordinance, or of any condition imposed pursuant to this Ordinance is grounds for the revocation of any rezoning, permit, variation, or approval granted and affecting the lot involved in the violation. The Zoning Administrator may recommend and the Village Board may order such revocation; provided, however, that where the original rezoning, permit, variation, special use, or approval was granted following a public hearing required pursuant to this Ordinance, the revocation must be preceded by a similar public hearing.

**E. Fines**

In the enforcement of this Ordinance, the Zoning Administrator will, where necessary and appropriate, order the issuance and enforcement of citations to recover fines and penalties for the violation of this Ordinance as authorized by law.

**14.4 PROCEEDINGS TO PREVENT VIOLATION AND STAY**

**A.** In the event any building or structure, including fixtures, is constructed, reconstructed, altered, repaired, converted, or maintained, or in the event any such building or structure, including fixtures or land, is used in violation of this Ordinance or any other ordinance of the Village, any owner or tenant of real property located within 500 feet in any direction of the property on which the building or structure or land in question is located who shows that his/her property or person will be substantially affected by the alleged violation, may institute any appropriate action or proceeding for one or more of the following:

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

**B.** When such action is instituted by an owner or tenant, notice of such action must be served upon the Village at the time suit is begun, by serving a copy of the complaint on the Village Clerk in order that the Village may join as a party plaintiff, if it so elects. In any such case wherein the Village fails to join as a party plaintiff, the Village will be named as a party defendant in any such action.

**14.5 PENALTIES**

**A.** Any person, firm, corporation, or agent, employees, contractors, or owners who violate, disobey, omit, neglect, refuse to comply with, or who resist enforcement of any of the provisions of this Ordinance will be subject to fines and/or penalties in accordance with the Comprehensive Fee Schedule adopted by the Village Board.

**B.** For purposes of this section and this Ordinance, each day that a violation is permitted to exist constitutes a separate offense.