CHAPTER 22
MARENGO ZONING CODE
(Ordinance 02-8-2, Passed 8/26/02)

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Revisions:

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10/28/02	*Section 7, Accessory Buildings, Structures and Uses*
1/27/03	*Sections 3, Definitions; Section 4.10, Intrusion Into Yards; Section 6.06, Nonconforming Structures; Section 13.02, Use Restrictions; and Section 17.06, Variations and Standards for Variations*
7/1/03	*Sections 8.04.A.1 and 8.08.A4 regarding driveways*
8/25/03	*Sections 7.02.C and 7.04 regarding accessory buildings*
3/8/04	*Sections 4.11, 4.14, 5.09, 5.12, 7.04, 7.06, 10.02, 11.02, 11.02, 11.04*
5/24/04	*Section 10*
12/11/06	*Sections 4 and 11 regarding BP, Business Park District*
1/15/08	*Sections 3, 4, 5, 7, 8 and 11*
9/28/09	*Sections 10 and 15*
4/22/13	*Sections 4 and 10, regarding AT Agricultural Transition District*

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Section 1
TITLE AND AUTHORITY

1.1 TITLE

This Chapter 22 shall be known and may be cited as the "Zoning Code" of the City of Marengo, McHenry County, Illinois. For the purposes of this Chapter 22, alternate terms and titles such as "Marengo Zoning Code," "Marengo Zoning Regulations," "Chapter 22 of the Marengo Municipal Code," the formerly-used term "Marengo Zoning Ordinance," and similar designations shall be deemed synonymous. Within Chapter 22, the terms "Code" and "Chapter" are used to refer to this "Zoning Code" unless otherwise defined. The "Zoning Code" and any subsequent amendments thereto may be published separately from the Marengo Municipal Code, and any such publication shall be deemed to be incorporated into the Marengo Municipal Code by reference and to be deemed in full force and effect.

1.2 AUTHORITY

This Chapter 22 is adopted under authority vested in the City of Marengo under the provisions of the Illinois Municipal Code (Chapter 65 of the Illinois Compiled Statutes, 65 ILCS 5/1-1-1 et. seq., as amended).

Section 2
INTENT AND PURPOSE

This Zoning Code is adopted for the following purposes:

1. To promote and protect the public health, safety, morals, comfort, and general welfare of the people;

2 To divide the City of Marengo into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of the buildings, structures and land for residences, business, manufacturing and other specified uses;

3 To protect the character and the stability of the residential business and manufacturing areas within the City of Marengo and to promote the orderly and beneficial development of such areas;

4 To provide adequate light, air, privacy, and convenience of access to property;

5 To regulate the intensity of use of lot areas, and to determine the area of open spaces surrounding buildings, necessary to provide adequate light and air and to protect the public health;

6 To establish building lines and the location of buildings designed for residential, business, manufacturing, or other uses within such areas;

7 To fix reasonable standards to which buildings or structures shall conform therein;

8 To prohibit uses, buildings, or structures incompatible with the character of development or intended uses within specified zoning district;

9 To prevent additions to, or alterations or remodeling of, existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;

10 To limit congestion in the public streets and protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles;

11 To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort, and general welfare;

12 To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;

13 To conserve the taxable value of land and buildings throughout the City.

14 To provide for the elimination of non-conforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;

15 To clearly and concisely explain the procedures for obtaining variances, special use permits, amendments and other zoning processes;

16 And to define and limit the powers and duties of the administrative officers and bodies as provided herein.

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Section 3

DEFINITIONS

In the construction of this Zoning Code, the rules and definitions contained in this Section 3 shall be observed and applied, except when repugnant to the context of any provision.

Words, whether capitalized or not, used in the present tense shall include the past and future tenses, and words used in the future tense shall include the present tense; words used in the singular number shall include the plural number; words used in the masculine gender shall include the feminine and neuter genders; the word "building" shall include the word "structure" and the word "lot" shall include the word "plot"; the word "shall" is mandatory and not directory, while the word "may" is permissive; and the words "zone," "district" or "zoning district" may be used interchangeably. Definitions in Appendix A of the Marengo Municipal Code are applicable to this Zoning Code. Unless indicated otherwise, definitions are not case sensitive.

Abandoned: To give up one's right or interest in property.

Abutting: Having a common lot line or district line.

Accessory Building, Structure or Use: A subordinate building, structure, or use which is located on the same lot on which the principal building or use is situated or occurs, and which is customary and incidental to the conduct of the primary use of such building or the primary use on the lot, when permitted by district regulations.

Access: The ability to ingress and/or egress from a public roadway.

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

Acreage: Any tract or parcel of land having an area of one acre or more which has not been subdivided by metes and bounds or platted.

Addition: Any act or process that changes one or more of the exterior architectural features of a structure including but not limited to the erection, construction, reconstruction, or removal of any structure.

Adult Business: As defined in Chapter 44, Adult Business Licenses, of the Marengo Municipal Code.

Airport or Aircraft Landing Field: Any landing area, runway or other facility (including heliports), designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tiedown areas, hangars and other necessary buildings and open spaces.

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

Alley: A public way which affords only a secondary means of access to abutting property.

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

Alteration: Any act or process that changes one or more of the exterior features of a structure including but not limited to the erection, construction, reconstruction, or removal of any structure.

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

Antenna: An arrangement of wires, metal rods or similar materials used for the transmission and/or reception of electromagnetic waves to include satellite dishes and communication towers.

Antenna Support Structure: Any structure utilized for the principal purpose of supporting a satellite dish antenna.

Apartment: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen, bath and toilet facilities, permanently installed, must always be included for each apartment.

Arcade: Any establishment displaying for public patronage or keeping for operation four or more amusement devices including, but not limited to, pool tables, foosball tables, air hockey tables, mechanical rides for children, electronic games and shooting gallery type games.

Asphalt: A mixture of petroleum by-products and gravel used for paving to form a smooth, permanent surface, "Asphaltic concrete" does not mean "oil and chip."

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

Automobile Car Wash/Laundry: A building or portion thereof where automobiles are washed by mechanical device.

Automobile Repair, Major: Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; and overall painting of vehicles.

Automobile Repair, Minor: Incidental repairs, replacement of parts and motor service automobiles, but not including any operation specified under "Automobile Repair, Major."

Automobile Sales Lot: A lot arranged, designed or used for the storage and display for sale of any motor vehicle including trucks or any type of trailer, provided that the trailer is unoccupied and where repair work as an accessory use is done to automobiles or trailers.

Automobile Service Station: A place where gasoline, stored only in underground tanks, kerosene, lubricating oil or grease, for operation of automobiles, are offered for sale directly to the public on

the premises and including minor accessories and services for automobiles; but not including major automobile repairs; and including washing of automobiles where a mechanical device is employed. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage. Automobile service stations shall not include sale or storage of junkers or junk yards as defined herein.

Automobile Wrecking Yard: Any place where one or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicle or parts thereof, and including any used farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging of any other goods, articles or merchandise.

Awning: A roof like cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

Basement: A story partly underground. Where more than one-half of its height is above the established curb level or above the average level of the adjoining ground where curb level has not been established, a basement shall be counted as a story for purposes of height measurement.

Bed and Breakfast: As defined in 50 ILCS 820/2. An owner-occupied dwelling unit having not more than five guest rooms where lodging, with or without meals, is provided to the public for compensation.

Bedroom: Any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which is not clearly identified for some specific purpose such as a kitchen (one per unit), dining room (one per unit), living room (one per unit), bathroom(s) and family room (one per unit). *Amended, 03-1-8*

Billboard: Any structure or portion thereof upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to announce church services, or to display court or other public office notices or signs offering the sale or lease of the premises on which the sign is located.

Block: 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 shore lines of waterways or a corporate boundary line of the City.

Boarding House: A building other than a hotel or restaurant where meals are provided for compensation to four or more persons, but not more than 12, who are not members of the keeper's family.

Board of Appeals: The Planning and Zoning Commission, and may also be referred to as the Zoning Board of Appeals.

Buffer Strip: An area of land, undeveloped except for landscaping, fences, etc., used to protect a use

situated on one lot from the deleterious effects of the use on the adjacent lot.

Buildable Area: The space remaining on a zoning lot after the minimum open space requirements of this Zoning Code have been complied with.

Building: Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings; and which is designed or intended for the shelter, enclosure or protection of persons, animals or chattels. Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers and other similar structures, are not considered as buildings.

Building, Completely Enclosed: A "completely enclosed building" is a building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal exit or entrance doors.

Building Front: That portion of a building where the primary building entrance is located. Where more than one primary building entrance is provided, the building front shall be that portion of the building facing toward the street to which the legal address has been assigned. Corner lots shall have only one building front. The legal address of a building on a corner lot shall be determined by factors including, but not limited to: orientation of building, location of driveway, and placement of mailbox.

Building Height: The vertical distance measured at the established grade on the front side of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building. *Amended, 03-1-8*

Building, Non-Conforming: Any building which does not conform to the regulations of this Zoning Code prescribing the maximum floor area ratio, required yards, coverage, height and setbacks, minimum required spacing between buildings on a single lot, and minimum required usable open space for the district in which such building is located.

Building, Principal: A building within which the principal use of the zoning lot is conducted. *Amended, 03-1-8*

Building Line or Building Setback Line: A line or lines on the horizontal surface of a lot, parallel or nearly parallel to the front, side, and rear lot lines, and located at a distance prescribed by the yard regulations and beyond which no portion of a building or structure may extend as provided for in this Zoning Code.

Bulk: The term used to describe the size and mutual relationships of buildings and other structures, as to size, height, coverage, shape, location of exterior walls in relation to lot lines, to the center line of streets, to other walls of the same building and to other buildings or structures, and to all open spaces relating to the building or structure.

Business Park: A collection of lots and/or buildings wherein the principal land use is commercial in nature.

Bus Lot: Any lot or land area used for the storage or layover of passenger buses or motor coaches.

Canopy: A roof-like structure similar to an awning, except that it cannot be raised or retracted to a position against the building.

Cartage, Local: Pick-up and delivery of parcels, packages and freight by motor truck within and not exceeding 15 miles of the City.

Cellar: A cellar is a story having more than one-half of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement.

Cemetery: Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes.

Centerline:

1. The centerline of any right-of-way having a uniform width;

2. The original centerline where a right-of-way has been widened irregularly;

3. The new centerline whenever a road has been relocated.

Certificate of Appropriateness: A certificate issued by the Historic Preservation Commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic preservation district.

Changeable Copy Sign: A sign which has provision for changing the message thereon either manually or electronically.

Church: A building primarily used for religious worship. The word "church" shall include, but not be limited to, chapel, temple, synagogue and mosque.

Clinic or Medical Health Center: An establishment where patients are admitted for special study and treatment by one or more licensed physicians and their professional associates, practicing medicine together.

Club or Lodge, Private: A "private club or lodge" is a nonprofit association of persons, who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof.

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

Commercial Vehicle: Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for-hire or not-for-hire, but not including a vehicle used in a ride sharing arrangement when being used for that purpose or a recreational vehicle not being used commercially. In any event, any vehicle that is licensed for a gross weight, including vehicle and cargo, of 8,001 pounds or more, or any vehicle used in a commercial enterprise and containing lettering or logo on the vehicle body advertising that commercial enterprise, shall be considered a commercial vehicle.

Commission: The Building and Zoning Commission of the City.

Comprehensive Plan: The adopted Comprehensive Plan of the City, and as amended from time to time.

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

Corner Side Yard: The side yard adjacent to a street or private road extending from the front yard building setback line to the rear lot line. *08-1-4*

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

Curb Level: The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the "curb level" shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the mean level of the land immediately adjacent to the building shall be considered the "curb level."

Day Care Center: Any child care facility operated for profit or not-for-profit, which regularly provides day care for minor children and which must be licensed to render such day care by the Illinois Department of Children and Family Services.

Deck: An exterior floor system supported on at least two opposing sides by an adjoining structure and/or posts, piers or other independent supports.

Decorative Structure: Any embellishment or ornamental object that is built or placed in a yard, such as a planter, lighting fixture or fountain, which is less than eight feet in height, is accessory to the principal structure on the lot, and is associated with the landscaping on the lot.

Design Guideline: A standard of appropriate alteration or construction activity that will preserve the historic and architectural character of a structure or area.

Detached: As applied to buildings, "detached" means surrounded by yards on the same lot as the building.

Develop: To erect any structure or to install any improvements on a tract of land or to undertake any

activity (such as grading) in preparation therefor.

Dimensions: Refers to lot depth, lot width and total lot area.

Doghouse: An exterior shelter that does not exceed four feet in height and 25 square feet in floor area or lot coverage for the exclusive use of domesticated canine animals containing walls, roof, floor and one opening for ingress and egress of the canine animals.

Door: Full, complete, non-transparent closure device that obscures the view or activity taking place within the enclosure.

Drive-in (through) Restaurant: Any food service establishment or restaurant or similar place in which food or drink is for sale on the premises or elsewhere in which service is received in an automobile or at central service windows. The term "drive-in" shall apply to any food service establishment other than cafeterias, in which service is made to a customer at a location other than tables on the premises intended for use by the customer for eating.

Drive-in Theater: A tract of land developed with facilities for projecting motion pictures on an outdoor screen for viewing by patrons in automobiles parked on the premises.

Driveway: A paved area on private property that intersects with the roadway of a public street and is intended to provide vehicle access from the public roadway to a private property. *08-1-4*

Dwelling: A building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, boarding or lodging houses.

Dwelling Unit: A unit within a dwelling, entirely separated from any other unit within said dwelling, designed for occupancy by one family.

Dwelling, One-Family: A building designed exclusively for use and occupancy by one family, and entirely separated from any other dwelling by space.

Dwelling, Two-Family: A building designed or altered to provide dwelling units for occupancy by two families.

Dwelling, Multiple-Family: A building or portion thereof, designed or altered for occupancy by three or more families living independently of each other.

Dwelling, Row-Party Wall: A row of two to eight attached, one-family, party-wall dwellings, not more than 2½ stories in height, nor more than two rooms in depth measured from the building line.

Easement: Land that has been designated by lawful agreement between the owner of such land and another person or entity for a specified use only by such person or entity.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

Enclosed: See "building, completely enclosed" herein.

Enlarge: To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: To build, construct.

Establishment: Either of the following:

1. An institutional, business, commercial or industrial activity that is the sole occupant of one (1) or more buildings; or

2. An institutional, business, commercial or industrial activity that occupies a portion of a building such that:

    a. The activity is a logical and separate entity from the other activities within the building and not a department of the whole; and

    b. The activity has either a separate entrance from the exterior of the building or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

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

Exterior Architectural Appearance: The architectural and general composition of the exterior of a structure including but not limited to the composition, color and texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

Family: One of the following, except as otherwise provided herein:

1. Two or more individuals related by blood, marriage or legal adoption (including foster children), together with domestic servants and not more than two gratuitous guests, living as a single, not-for-profit housekeeping unit occupying a dwelling unit.

2. Three or fewer individuals not related by blood, marriage or legal adoption (including foster children), living as a single, not-for-profit housekeeping unit occupying a dwelling unit. Servants or guests residing with said family shall be included in the unrelated person attained by this definition, and shall not be in addition thereto.

3. No more than two individuals who are not necessarily related to each other by blood, and their dependents, together with domestic servants and not more than two gratuitous guests, living as a single, not-for-profit housekeeping unit occupying a dwelling unit.

FCC: The Federal Communications Commission.

Fence: A free-standing structure of metal, masonry, wood or other solid durable material composed of natural, manufactured or processed materials, or any combination thereof, not part of any building, which rests on a raised platform or is supported by posts on or partially buried in the ground, and is used to confine, screen, partition, enclose, visually define or otherwise create a form of barrier for an area. A fence is a structure forming a barrier above a raised platform or at grade level between lots, between a lot and a street or other public right-of-way, or between portions of a lot or lots. A fence may be solid or partially permeable to light and air, and therefore a wall shall be deemed to constitute a fence. A hedge or series of shrubs densely planted in such a fashion so as to create a barrier sharing similar characteristics of a fence shall also be deemed to constitute a fence.

Fence, Decorative: Any fence installed only as an ornamental embellishment at a lot corner or adjacent to a street which may include associated plantings and/or other landscape features.

Fence, Marketing: Any fence installed only as an ornamental embellishment at a lot corner or adjacent to a street which may include associated plantings and/or other landscape features, which has been installed by a developer of a subdivision with the consent of the City as a temporary structure for purposes of assisting in marketing the development.

Floor Area, Gross: The sum of the gross horizontal area of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes living areas; halls, closets, stairwells; space devoted to mechanical equipment and enclosed porches.

Floor Area Ratio (FAR): The gross floor area of the building or buildings on the zoning lot divided by the area of such zoning lot; or in the case of a planned development, by the net site area.

Frontage: The lineal extent of the front (street-side) of a lot.

Foundation, Permanent: A closed perimeter formation consisting of materials such as concrete or concrete block which extends into the ground below the frost line.

Game Area: Any building or portion thereof, where three or more amusement devices are located in an area or areas under the leasehold or ownership control of one person. For purposes of this definition, an area includes all common walkways, malls and pedestrian thoroughfares in any building or series of buildings connected by party walls. The presence of less than three such devices shall not be included in this definition if such devices are located wholly within an establishment and are accessory to the principal use.

Garage, Bus or Truck: Any building used or intended to be used for the storage of three or more passenger motor buses, or motor coaches used in public transportation, including school buses, or a building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding 1½ ton capacity.

Garage, Private: A detached accessory building or portion of the principal building designed, arranged, used or intended to be used for the storage of automobiles of the occupants of the

premises.

Garage, Public: A building, other than a private garage, used for the care, incidental servicing, and sale of automobile supplies, or where motor vehicles are parked or stored for remuneration, hire or sale within the structure, but not including trucks, tractors, truck trailers and commercial vehicles exceeding 1½ ton capacity.

Group Home: A single dwelling unit occupied on a relatively permanent basis in a family-like environment by unrelated persons with disabilities. Paid professional support staff, provided by a sponsoring agency, either living with the residents on a 24-hour basis, or present whenever residents are present at the dwelling, shall be required, unless a special use permit is issued.

Guest House: Living quarters within a detached accessory building located on the same premises with the principal building for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities nor be rented or otherwise used as a separate dwelling unit.

Historic Preservation District: An area designated by an ordinance of the City Council and which may contain within definable geographic boundaries one or more designated landmarks and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the designated Historic Preservation District.

Home Occupation: Any business, professional or commercial activity that is conducted in whole or in part in a dwelling unit, is clearly incidental, secondary, and subordinate to the principal residential use of the dwelling unit, and does not change the essential residential character of such dwelling unit.

Hospital or Sanitarium: An institution open to the public in which patients or injured persons are given medical or surgical care, or for the care of contagious diseases or incurable patients.

Hotel or Motel: A building in which more than five rooms or suites are reserved to provide living and sleeping accommodations for temporary guests, with no provisions in said rooms for cooking in any individual room or suite.

Householder: The occupant of a dwelling unit who is either the owner or lessee thereof.

Impervious Surfaces: All buildings, structures, parking lots and facilities, sidewalks, driveways and service drives, graveled areas, paved recreational areas and other elements that do not readily absorb or retain rainwater.

Intensity: To increase the level or degree of use.

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

Junk Yard: The use of more than 200 square feet of any lot where waste, scrap metal, paper, rags or

similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel, Commercial: Any lot or premises or portion thereof on which more than five dogs, cats or other household domestic animals over four months of age are kept or on which more than two such animals are boarded for compensation or kept for sale.

Laboratory, Commercial: A place devoted to experimental study such as testing and analyzing. Manufacturing, assembly or packaging of products is not included within this definition.

Landmark: Any building, structure or site which has been designated as a "Landmark" by an ordinance of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration and preservation because of its historic and/or architectural significance.

Line of Building (for measuring yards): A line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as being permitted to extend into a yard.

Loading and Unloading Space, Off-Street: An open, hard surfaced area of land other than a street or public way, the principle use of which is for the standing, loading and unloading of motor trucks, tractor trailers to avoid undue interference with the public use of streets and alleys. Such space shall be not less than 12 feet in width, 50 feet in length and 15 feet in vertical clearance, exclusive of access aisles and maneuvering space. *Amended, 08-1-4*

Lodging or Rooming House: A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or to overnight guests.

Lot: A parcel of land occupied or intended for occupancy by a use permitted in this Zoning Code, including one or more principal buildings and accessory buildings or structures as permitted by the City, yards, and open spaces required in this Zoning Code for off-street parking or loading facilities, and having its principal frontage upon a street or upon an officially approved place. Such parcel of land shall be established by a plat of subdivision approved by the City and recorded with the County Recorder's Office. The word "lot" when used alone shall mean a "zoning lot" unless the context of this Zoning Code clearly indicates otherwise.

Lot Area: The area of a horizontal plane bounded by the front, side and rear lines of a lot.

Lot, Corner: A parcel of land situated at the intersection of two or more streets or adjoining a curved street at the end of a block.

Lot Coverage: The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

Lot Depth: The horizontal distance between the front and rear lot lines measured in the mean

direction of the side lot lines.

Lot Frontage: The front of a lot shall be that boundary of a lot along a public or private street. For a corner lot the owner may elect either street line as a front lot line for the purposes of orientation of a dwelling or building thereon, except if the front of the lot is designated on the plat of subdivision. Notwithstanding the choice of such orientation, a corner lot shall be deemed to have two front yards for the purposes of establishing setback requirements. See also Building Front.

Lot, Interior: A lot other than a corner lot, through lot, or reversed corner lot.

Lot Line, Front: The front property line of a zoning lot. See Lot Frontage for additional requirements.

Lot Line, Interior: A side lot line common with another lot.

Lot Line or Property Line: A line dividing one lot from another, or from a street or right-of-way, or from any public place.

Lot Line, Rear: The lot line or lines most nearly parallel to and most remote from the front lot line.

Lot Line, Side: The lot line or lines other than front or rear lot lines, except for corner lots, where the side lot line adjacent to a street shall be deemed a front lot line for the purposes of establishing setback requirements.

Lot of Record: A lot properly platted and recorded in the office of the McHenry County Recorder of Deeds.

Lot, Reversed Corner: A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

Lot, Through: A lot having frontage on two parallel or approximately parallel streets, and which is not a corner lot.

Lot, Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth at the building setback line. However, for lots where the side lot lines are not parallel, the established lot width shall be the average of the front and rear lot widths, where the lot width is the length of a straight line between the points at which the required building setback line intersects the side lot lines.

Lot, Zoning: See "Zoning Lot."

Manufacture: The making of anything by an agency or process.

Marquee or Canopy: A roof like structure of a permanent nature which projects from the wall of a building and may overhang the public way.

Mean Water Line: The line at which the water usually stands when free from disturbing causes, including but not limited to, snow melt and rainfall.

Medical Office: An establishment where human patients, not animals or pets, are admitted for diagnosis and treatment by licensed physicians, medical practitioners and professional associates, who may utilize jointly the same reception area, medical supply, laboratory, auto parking and other physical accommodations.

Motor Freight Terminal, Private: A building in which freight, brought to said building by motor truck, is assembled and sorted for routing in intrastate and interstate shipment by motor truck.

Municipal Code: The Marengo Municipal Code of which the Zoning Code is Chapter 22.

Municipal Facilities: Any building, structure or appurtenance thereto, open space or parcel of property owned or leased by the City.

NOAA: National Oceanic & Atmospheric Administration.

Non-Conforming Use: Any building, structure or land lawfully occupied by a use or lawfully established at the time of the adoption of this Zoning Code or amendments hereto, which does not conform after the passage of this Zoning Code or amendments hereto with the use regulations of this Zoning Code.

Noxious Matter: Matter which is capable of causing injury or illness to living organisms or is capable of causing detrimental effects to the health of the psychological, social or economic well being of humans.

Nursing Home or Rest Home: A private home for the care of children or the aged or inform, or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness injuries or for surgical care.

Nursery, Day: See "day care center" herein.

Nursery School: An institution providing day care service for children from four to six years of age.

Octave Band: An "octave band" is a means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

Open Space: Open space shall include all public and private areas set aside from development in order to provide for recreational or conservation purposes, which may be either passive or active uses, and which are designated due to factors including, but not limited to, natural features worthy of protection or preservation, site significance or recreational opportunities.

Ordinance: Reference to "ordinance" herein shall be construed as the Zoning Code.

Outdoor Storage: The keeping, in an unroofed area, of any goods, material, merchandise or

vehicles in the same place for more than 24 hours.

Parcel Delivery Station: A building in which commodities, sold at retail within the area and packaged by the retailer, are assembled and routed for delivery to retail customers located within the area.

Park: An open space area with recreational facilities and related accessory structures, including, but not limited to, playground equipment, picnic shelters, paths/trails, benches, tennis or basketball courts, playing fields, fences and parking lots.

Parking: The stationary placement of any vehicle or equipment for a continuous period of less than 48 hours.

Parking Area, Private: An open hard-surfaced area of land, other than a street or public way, designed, arranged and made available for the parking of private passenger vehicles only of occupants and their guests of the building or buildings for which the parking area is developed and is accessory.

Parking Area, Public: An open, hard surfaced area, other than a street or public way, intended to be used for the temporary storage of passenger automobiles and commercial vehicles under 1½ ton capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers. *Amended, 08-1-4*

Parking Space, Automobile: Space within a public or private parking area of not less than 162 square feet 8½ feet by 19 feet, exclusive of access drives or aisles, ramps, columns or office and work areas, for the storage of one passenger automobile or commercial vehicles under 1½ ton capacity.

Paved Surface: Includes concrete, bituminous, brick pavers, or other impervious or pervious material commonly used for a finish surface material of a parking or driveway area. *08-1-4*

Performance Standard: A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare to be moved or removed.

Planned Development: A "planned development" is a tract of land which is developed as a unit under single ownership or control which includes two or more principal buildings, and which may not completely conform to all of the regulations of the district in which it is located. The development of a "planned development" shall be according to regulations as hereinafter set forth.

Planning and Zoning Commission: The City Planning and Zoning Commission. Any reference to Commission in this Zoning Code shall also mean the Planning and Zoning Commission.

Play Equipment: A free-standing accessory structure, exclusively for the use of children, including but not limited to swing sets, "jungle gyms" and similar recreational structures.

Playhouse: A free-standing accessory building, whether permanent or portable, fully or mostly

enclosed with walls, roof, window(s) and a door, exclusively for the use of children. For the purposes of this definition, a treehouse shall be deemed to be equivalent to a playhouse.

Plot: A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

Porch: A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Public Utility: Any person, firm, corporation or municipal department, duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, telegraph, transportation or water.

Railroad Right-of-Way: A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.

Recreational Vehicle: A term encompassing any type of vehicle used primarily for recreational pleasure. Examples are, but not limited to, travel trailers, motor homes, boats, etc.

1. Travel trailer is a structure designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed eight feet in width and a body length of 35 feet.

2. Camper trailer (pop up) is a structure designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle, not to exceed 24 feet in length and five feet six inches in height in a collapsed position.

3. Motor home is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle not to exceed 40 feet in length and 12 feet in height.

4. Pickup camper is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational or vacation use.

5. Watercraft is any unit that is used for water travel or pleasure, 35 feet or less in length, but not to exceed 12 feet in height, either mounted on a boat trailer or unmounted; also boat

trailer without boat mounted.

6. Snowmobiles are considered recreational vehicles.

Redevelopment: The removal of the principal buildings or structures from land and/or the construction or erection of other principal buildings or structures thereon, or the development of vacant properties.

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

Ringelmann Number: The "Ringelmann Number" is the number of the area of the Ringelmann Chart that coincides most nearly with the visual density of emission.

Satellite Dish Antenna: Any parabolic, dish-type, circular, rectangular, concave, convex, or similarly-shaped structure, which is solid or open-web in construction, designed for receiving communications, radio, television, data, or other signals from a satellite or other sources, or for transmitting such signals to a receiving station, or both. For the purposes of this definition, a "miniature satellite dish antenna" shall mean any satellite dish antenna that has a diameter or width of one meter (approximately 39 inches) or less, and a "regular satellite dish antenna" shall mean any satellite dish antenna that has a diameter or width of more than one meter.

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

Self-Storage, Mini Warehouse: A building or buildings in a controlled access area that contain varying sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of a customer's goods or wares.

Sell: Includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

Setback: The horizontal distance between the building or structure and the lot line.

Setback Line, Building: See "Building Setback Line."

Shed: A fully or mostly enclosed accessory building or structure, also known as a "storage shed," utility shed or "tool room," that is used for sheltered storage of personal property pertaining to the principal building to which the shed is accessory.

Smoke Units: "Smoke Units" represent the number obtained by multiplying the smoke density in Ringelmann numbers by the time of emission in minutes. For the purpose of this chart, Ringelmann density reading is made at least once every minute during the period of observation; each reading is then multiplied by the time in minutes during which it is observed; and the various products are added together to give the total number of "smoke units" observed during the total period under observation.

Special Use: A use, either public or private, of land or buildings or both, which because of its unique characteristics, cannot properly be classified as a permitted use in any particular zoning district or districts, and which, in accordance with the provisions of Section 16.3 herein, after due consideration in each case of the impact of such use upon adjoining properties and of the need or appropriateness for the particular use at the particular location, such special use may or may not be granted, and if granted, may be subject to conditions or restrictions.

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

Storage: The stationary placement of any vehicle or equipment for a continuous period of 48 hours or more, and/or for which further evidence of storage intent may include, but is not limited to, covering said vehicle or equipment with a tarp or other type of cover, failure to keep tires inflated, removal of tires and allowing said vehicle or equipment to be in or fall into a state of disrepair by any means that renders it incapable of being driven, operated or moved.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

Story, Half: A half story is that portion of a building under a gable, hip or mansard roof, the wall plates of which on at least two opposite exterior walls, are not more than 4½ feet above the finished floor of such story.

Street: A public way other than an alley.

Street Line: A line separating an abutting lot, piece or parcel, from a street.

Structural Alterations: Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Structure: Anything constructed or erected which required location on the ground or is attached to something having location on the ground.

Tanning Salon: A room or booth which houses ultraviolet lamps or products containing such lamps intended to induce skin tanning through the irradiation of any part of the human body for cosmetic or non-medical related purposes.

Tavern: A building where liquors are sold to be consumed on the premises.

Temporary Use Permit: A permit issued in accordance with the provisions of this ordinance and valid for not more than one year, which allows the occupation of a temporary structure or the operation of a temporary enterprise

Terrace, Open: A level and rather narrow plane or platform, which for the purpose of this Zoning

Code, is located adjacent to one or more faces of the principal structure and which is constructed not more than four feet in height above the average level of the adjoining ground.

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

Tourist Home: A dwelling in which accommodations are provided or offered for transient guests.

Trailer, Trailer House or Mobile Home: A vehicle without motored power, designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a trailer coach or house trailer or mobile homes.

Truck Parking Area, or Yard: Any land used or intended to be used for the storage or parking of trucks, tractors, truck trailers and including commercial vehicles, while not loading or unloading, and which exceed 1½ tons in capacity.

Use: The purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

Used Car Lot: A zoning lot on which used or new cars, trailers or trucks are displayed for sale or trade.

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

Variation: A divergence from bulk, setback, height, parking and loading, or other regulatory elements of this Zoning Code.

Vehicle, Non-Passenger: A motor vehicle eight feet or more in overall height or 22 feet or more in overall length and any vehicle or trailer except recreational vehicles and equipment not customary or incidental to the use of occupancy of residential properties, such as, but not limited to: dump trucks; step vans; cargo trucks; tow trucks; semi trailer tractors; fire trucks; boom trucks; tank trucks; hearses; livery vehicles, such as taxis and limousines; and the like. *08-1-4*

Vehicle, Passenger: Any motor vehicle licensed for on-street use measuring less then eight feet in overall height and less than 22 feet in overall length designed and commonly used for personal or work related day-to-day transportation purposes carrying not more than 15 persons, including the driver. A passenger vehicle includes automobiles, sport utility vehicles (SUVs), vans and pick-up trucks with a manufacture's nominal rating carrying capacity of one ton or less and commonly known as a pick-up truck, and a van designed with no barrier separation between the operator area and the remainder of the cargo carrying area with a manufacture's nominal rating carrying capacity of one ton or less. Passenger vehicles shall not include buses, motorcycles, motorized bicycles, motorized foot scooters, as well as non-passenger vehicles, school buses, trailers, recreational equipment or recreational vehicles as defined by the Section. A handicap equipment van used for personal purposes shall be deemed a passenger vehicle regardless of the height. *08-1-4*

Yard: An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted by this Zoning Code, and which extends along a lot line and at a depth or width specified in the yard regulations for the district in which the zoning lot is located. In measuring a yard for the purpose of determining the depth of a front yard, the width of a side yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the principal building shall be used.

Yard, Front: A yard extending across the full width of the zoning lot and lying between the front line of the lot and the nearest line of a building.

Yard, Rear: A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

Yard, Side: That part of the yard lying between the nearest line of the principal building and a side lot line, and extending from the front yard to the rear yard, or situated in between the front yard and the rear yard.

Zoning Administrator: The officer designated by the City as the person responsible for administering and enforcing the requirements of the Zoning Code. (See Section 17.01 herein.)

Zoning Code: The City of Marengo Zoning Code, which is Chapter 22 of the Marengo Municipal Code.

Zoning District: A division of the geographic area of the City, as shown on the Zoning Map, wherein the character and intensity of land use is regulated by the terms of this Zoning Code. Also, a geographical area for which the regulations governing uses, setback and bulk requirements, and other conditions of uses are uniform as provided for in this Zoning Code. The terms "district," "use district" and "zone" are deemed synonymous.

Zoning Lot: A plot of ground, made up of one or more parcels, which is or may be occupied by a use, building or buildings including the open spaces required by this Zoning Code.

Zoning Map: The map or maps incorporated into this Zoning Code as a part hereof, designating zoning districts. *pjh:Marengo.Zone\Section3.Definitions.Jan08.doc*

Section 4

USE DISTRICTS

4.01 Zoning Districts
4.02 Zoning Maps
4.03 New and Annexed Land
4.04 Zoning of Streets, Alleys, Public Ways, Waterways and Railroad Rights-of-Way
4.05 Boundary Lines
4.06 General Provisions
4.07 Meeting Minimum Zoning Requirements
4.08 Access Required
4.09 Front Setbacks-Corner/Through Lots
4.10 Private Garages
4.11 Lot Coverage

4.01 ZONING DISTRICTS *Amended, 06-12-3*

In order to carry out the purposes and provisions of this Zoning Code the City is hereby divided into the following districts:

ER Estate Residential District
R-1 Single Family District
R-2 Single Family District
R-3 Single Family District
R-5 Multiple Family District
B-1 Central Business District
B-2 General Business District
B-3 Regional Shopping District
BP, Business Park District
ORI Office, Research & Light Industrial District
M Manufacturing District

4.02 ZONING MAPS

The location and boundaries of the districts established herein are shown upon the zoning map which is hereby incorporated into this Zoning Code. The zoning map together with all notations references and other information shown thereon and all amendments thereto shall be a part of this Zoning Code and shall have the same force and effect as if the zoning map together with all notations references and other information shown thereon were fully set forth and described herein.

4.03 NEW OR ANNEXED LAND *Amended, 13-__-__*

Submerged land heretofore reclaimed or which may be reclaimed hereafter and land heretofore annexed or which may be annexed to the City hereafter and which is not shown on the zoning map made a part of this Zoning Code which has been zoned as agricultural land pursuant to the McHenry

County Zoning Ordinance shall be classified in the AT Agricultural Transition District until such time as the City Council designates the permitted use of the land in accordance with the provisions of this Zoning Code. Land which may be annexed to the City that is not zoned agricultural under the McHenry County Zoning Ordinance shall be classified ER Estate Residential District until such time as the City Council designates the permitted use of the land in accordance with the provisions of this Zoning Code.

4.04 ZONING OF STREETS, ALLEYS, PUBLIC WAYS, WATERWAYS AND RAILROAD RIGHTS-OF-WAY

All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways, waterways and railroad rights-of-way. Where the center line of a street alley public way or railroad right-of-way serves as a district boundary the zoning of such areas unless otherwise specifically designated shall be deemed to be the same as that of the abutting property up to such center line.

4.05 BOUNDARY LINES

Wherever any uncertainty exists as to the boundary of any use district as shown on the zoning maps incorporated herein the following rules shall apply:

1. Where district boundary lines are indicated as following streets alleys or similar rights-of-way they shall be construed as following the center lines thereof.

2. Where district boundary lines are indicated as approximately following lot lines such lot lines shall be construed to be such boundaries.

3. Where a lot held in one ownership and of record at the effective date of this Zoning Code is divided by a district boundary line the entire lot shall be construed to be within the less restricted district; provided that this construction shall not apply if it increases the area of the less restricted portion of the lot by more than 20 percent.

4.06 GENERAL PROHIBITIONS

No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Zoning Code. Similarly, no lot or part thereof shall be used, occupied or developed except in conformity with the provisions of this Zoning Code.

4.07 MEETING MINIMUM ZONING REQUIREMENTS

Except as specifically provided elsewhere in this Zoning Code, every lot must meet the minimum dimensions and minimum setback requirements of the district in which it is located independent of counting any portion of an abutting lot.

4.08 ACCESS REQUIRED

No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to a public street or a private street that conforms to the standards set forth in the Subdivision Control Ordinance of the City.

4.09 FRONT SETBACKS-CORNER/THROUGH LOTS

Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

4.10 PRIVATE GARAGES *Amended, 04-2-1*

Private garages or carports are not to exceed 15 feet, 6 inches in height, nor to exceed the following capacities or size:

1. For single-family residence: Three car garage maximum with 700 square feet in area for a detached or free-standing garage, and either the width or length is limited to 32 lineal feet.

2. For multiple-family residence: Two car garage per dwelling unit, maximum five 550 square feet.

3. Hold no more than three cars.

4.11 LOT COVERAGE

A. The maintenance of yards, courts and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or the property on which it is located as long as the building is in existence. Furthermore, no legally required yards, courts or other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any other reason be used to satisfy yard, court, open space or minimum lot area requirement for any other building.

B. Division of Zoning Lots: No improved zoning lot shall hereafter be divided into two or more zoning lots unless all improved zoning lots resulting from each such division conform with all the applicable bulk regulations of the zoning district in which the property is located.

C. Location of Required Open Space: All yards, courts and other open spaces allocated to a building or dwelling shall be located on the same zoning lot as such building or dwelling group.

D. Required Yards for Existing Buildings: No yards now or hereafter provided for a building existing on the effective date of this Section 4 shall subsequently be reduced below or further reduced below if already less than the minimum yard requirements of this Zoning Code for equivalent new construction without a variance.

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under the limitations set forth herein for the district in which such building is located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks, stage towers or scenery lofts and necessary mechanical appurtenances, shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the City. For the purposes of establishing height of a building, the measurement shall begin at the established grade on the front side of the building.

B. No space allocated to a building or dwelling group for the purpose of complying with the side, rear or front yard, or court or other open space or lot area requirements of this Zoning Code, shall thereafter, by reason of change in ownership or for any other reason, be used to satisfy the yard, court, open space or lot area requirements of any other building or dwelling group.

C. No usable open space or off-street parking space or loading space existing or provided hereafter for any building be reduced below the minimum requirements hereinafter set forth for usable open space, parking space or loading space, nor further reduced if already less than minimum requirements.

5.04 LOT AREA AND DIMENSION

When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

5.05 LOCATION OF BUILDINGS

Except as otherwise provided for in this Zoning Code, every building shall be constructed or erected upon a lot or parcel of land which abuts upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of 25 feet, unless an easement of lesser width was of record prior to the adoption of this Zoning Code.

5.06 BUILDINGS UNDER CONSTRUCTION

Nothing in this Zoning Code shall be deemed to require any change in the plans, construction or designated use of any building or structure upon which actual construction was lawfully begun prior to the adoption of this Zoning Code, or any subsequent amendment thereto that would affect said plans, construction or use, provided, however, that construction is begun or the use is begun to be established within one year from such effective date of adoption or amendment, and said construction or establishment of use has been diligently carried on to completion in accordance with the approved plans on the basis of which a building permit or other permit has been issued, and furthermore, may upon completion be occupied or put into use under a certificate of occupancy or a certificate of use and compliance for the use for which it was originally designated. However, such building or establishment of use shall be completed within one year from the issuance of the building permit or other permit unless otherwise provided for in the Marengo Municipal Code. Furthermore, such a building, structure or use shall thereafter be subject to the provisions of Section 6, Non-Conforming Buildings and Uses, of this Zoning Code.

5.07 BUILDINGS ON A ZONING LOT

Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot as herein defined and in no case shall there be more than one such building on one zoning lot.

5.08 REZONING OF PUBLIC and SEMI-PUBLIC AREAS

An area indicated on the zoning map as a public park, recreation area, public school site, cemetery or other similar open space, shall not be used for any other purpose than that designated and when the use of the area is discontinued, it shall automatically be zoned to the most restricted adjoining district until such time as the Mayor and City Council designate a different classification in accordance with the provisions of this Zoning Code.

5.09 VISION CLEARANCE, CORNER LOTS *Amended, 08-1-4*

On corner lots no building hereafter erected and no planting or other obstruction to the vision of drivers of motor vehicles shall exceed a height of three feet above the grade within 25 feet of lot lines which are adjacent to streets.

5.10 REGULATION OF SPACE AND DENSITY OF RESIDENTIAL DWELLING UNITS

No person shall occupy or let to be occupied any dwelling unit, for the purpose of living therein, unless there is compliance with the requirements of this Section 5.10.

1. The maximum occupancy for any dwelling unit shall not exceed the lesser value of the following requirements:

    a. For the first occupant, there shall be at least 1,000 square feet of habitable floor space. There shall be at least 200 square feet of habitable floor space for every additional occupant.

    b. The total number of persons shall be no more than two times the number of habitable bedrooms within the dwelling unit.

2. Habitable floor space shall be permitted in a basement only when the floor is not more than four feet below finished grade level at all exterior walls containing openings required for natural light and ventilation.

3. No space located more than four feet below grade shall be considered habitable space, except that a basement recreation or family room, where a separate living room is provided elsewhere in the dwelling unit, may have a floor level more than four feet below finished grade level.

4. Every room occupied for sleeping purposes shall contain at least 100 square feet of habitable floor space.

5. Within every dwelling unit there shall be a bathroom with a flush water closet in good working condition for each six persons or fraction thereof living within that dwelling unit.

6. Habitable space shall include a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, laundries, furnace rooms, pantries and utility rooms of less than 50 square feet, foyers or communicating corridors, stairways, closets, storage space and workshops.

5.11 HOME OCCUPATIONS - REGULATIONS

The conduct of business or commercial activity in dwelling units in residential zoning districts may be permitted under the provisions of this Section 5.11. Home occupations shall be regulated as follows:

1. A home occupation is an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling. Beauty shops, barber shops and massage services are not considered home occupations.

2. Home occupations do not include garage or yard sales.

3. Home occupations are permitted as an accessory use to a residence only when all of the following criteria are met:

    a. Area of use: Home occupations shall be entirely contained within the interior of a residence or located in garages or accessory structures on the site. No visible evidence of the business shall be apparent from the street nor surrounding area. A home occupation shall use no more than 20 percent of the total dwelling unit floor area. Those home occupations which require occasional meetings using more than 20 percent of the floor space may be permitted providing such meetings do not occur more frequently than once a month.

    b. Employees: The home occupation shall be conducted by family members residing on the premises with no assistance from other individuals or groups.

    c. Sales, repairs and leasing:

        i. Sales: The commercial exchange of tangible goods or other items constituting a sale between the proprietor of a home occupation and members of the general public shall not be permitted on the premises of a home occupation. Members of the general public shall not include persons in the home by prior individualized invitation.

ii. Leasing: The exchange of items in a lease agreement between the proprietor of the home occupation or an assistant and a customer shall not occur on the premises of a home occupation.

d. Traffic and parking: No parking in the public right-of-way shall occur as a result of this home occupation except for occasional meetings. If parking for a home occupation occurs in a manner of frequency causing disturbance to the normal traffic flow for the neighborhood, the occupation shall be considered a business best handled in a commercial district rather than as a home occupation.

e. Changes to exterior: The appearance of a dwelling as a residence shall not be altered to the extent that attention is drawn to the structure as a commercial or business operation. Alterations of building material, size or color, lighting fixtures or intensity, parking area or any other exterior change should not cause the structure to lose its residential character nor should it detract from the residential character of the neighborhood.

f. Nuisance controls: A home occupation shall not create excessive noise, dust or dirt, heat, smoke, odors, vibration and glare or bright lighting which would be over and above that created by a single-family residential dwelling. The production, dumping or storage of combustible or toxic substances shall not be permitted on site. Additionally, a home occupation shall not create interference or fluctuations of radio or television reception.

g. Visitation: A home occupation may attract patrons, students or any business-related individuals only between the hours of 6:00 a.m. and 9:00 p.m. At any time during the day or evening, the parking standards in this Zoning Code shall apply to the activity generated by the home occupation, excluding family day-care homes. A home occupation shall not generate more than six arrivals and six departures per day by vehicles. Family day-car operations shall not generate more than 12 arrivals and 12 departures per day by vehicles. These standards shall not be construed so as to prohibit occasional group gatherings, recitals or demonstrations. However, such gatherings shall not occur more frequently than once per month and must be held within the visitation hours specified herein.

h. Signage: Signage or other forms of advertising pertaining to the home occupation may be placed or painted onto the exterior of the residence or in the yard of a residence. These signs may not exceed two square feet in area.

5.12 FENCES, SHRUBS, HEDGES AND DECORATIVE STRUCTURES *Amended, 08-1-4, 04-3-1*

In order to provide for the maximum safety of persons using the streets, rights-of-way, sidewalks and other public ways of the City, and to provide for the maximum enjoyment of the use of property, the following regulations shall apply to all fences, hedges and similar structures or elements located in the City.

1. For purposes of minimizing traffic hazards at street intersections by improving visibility for converging vehicles, obstructions higher than three feet shall not be permitted to be planted, placed or erected on any corner lot within the triangular portion of land designated as "restricted area." This triangular area shall consist of a portion of land extended from the corner of the lot 25 feet in either direction.

2. No barbed wire or other sharp pointed fence and no electrically charged fence shall be erected or maintained except in the industrial district. In the industrial district barbed wire cannot be lower than six feet from ground level. This requirement does not apply to agricultural zoned property.

3. No permanent fence or retaining wall shall be constructed or erected within any public street or alley right-of-way unless authorized by the City Council. Fences erected on public easements or across ditches shall be so constructed that drainage shall not be obstructed. Fences erected in any overland drainage easement shall be constructed to be at least 50 percent open to facilitate the passage of storm water/drainage. For every one unit of horizontal, vertical and diagonal fencing aforementioned, 50 percent requirement may be reduced if an adequate opening is provided at the base of the fencing to allow for the free passage of water in sufficient amounts as deemed appropriate by the City Administrator, Building Commissioner or the City Engineer. In the event of necessity for removal of such fence for maintenance or other purpose, removal and/or replacement of such fence or other improvement shall be the responsibility of the property owner.

4. Fences, walls and hedges in all residential districts shall not exceed a maximum height of six feet and may be located up to lot lines.

5 Fences, walls and hedges in the industrial district shall not exceed a maximum of eight feet and may be located up to lot lines.

6. With the exception of corner lots (see paragraph 1 herein), fences, walls and hedges shall not exceed four feet in height when located in the front and corner side yards. Chain link fencing is prohibited in front and corner side yards.

7. On a through lot both street lines shall be deemed front lot lines, but in the case of two or more contiguous through lots there shall be a common front.

8. All of the framing on any fence shall be on the interior side of the fence.

9. A wall of a private swimming pool shall not be located less than 10 feet from any rear or side property line or 10 feet from the side lot line abutting a street or 10 feet from any principal structure.

5.13 YARD AND BUILDING SETBACK EXCEPTIONS *Amended, 08-1-4*

The following structures or structural elements shall be allowed to project into or to be constructed

in any required yard, or beyond the building setback line, except as otherwise provided in this Zoning Code, and except that in no case shall such structure, structural element, or component part thereof extend beyond the property line:

1. Accessory buildings or structures as provided for in Section 7 of this Zoning Code.

2. Air conditioner (window); central air conditioner, provided that the unit is placed next to the dwelling if for residential use, and placed as designated on an approved site plan and the hot air is baffled in an upward direction if for non-residential use. Central air conditioners shall be prohibited in front yards.

3. Awnings and canopies as governed by Chapter 16 of the Municipal Code.

4. Balconies, unenclosed, not to exceed three feet in depth.

5. Bay or bow windows, one or two stories, not to exceed three feet in depth.

6. Driveways and curbs.

7. Fences, walls, hedges and decorative structures as provided for in Section 5.12 of this Zoning Code.

8. Fireplace chimneys, not to exceed three feet in depth, so long as the chimney chase does not exceed six feet in width.

9. Landscape features and plant materials, such as trees, shrubs and flowers. Planter boxes attached to a building shall not exceed two feet in depth.

10. Overhanging or projecting roofs, eaves, cornices or other similar architectural features, not to exceed two feet in depth (including any gutters attached thereto). For any portion of such features in excess of two feet in depth, only the portion in excess shall count towards any setback or yard requirements.

11. Parking spaces as governed by Section 8 of this Zoning Code.

12. Public or municipal utility equipment and supporting structures.

13. Sidewalks and ramps.

14. Signs as governed by Chapter 16 of the Municipal Code.

15. Steps, stairs and porches, all unenclosed, attached to and projecting from a principal building or to give access to a principal building, not to exceed four feet in height or depth.

16. Yard lights and parking lot lighting poles and fixtures.

17. Fire escapes not to exceed four feet into required yard.

18. Patios, no limit of intrusion.

19. The United States flag, a state flag, a municipal flag or a corporate flag are exempt from this restriction. One flag of each type shall be allowed on each zoning lot. Flags shall hang no greater than one third the length of the pole that it is on. Flagpoles shall be no higher than 30 feet.

5.14 TRAVEL TRAILERS AND RECREATIONAL VEHICLES *Amended, 08-1-4*

The requirements of paragraphs 1, 3 and 4 herein do not apply to travel trailers or other recreational vehicles parked on a permitted recreational vehicle sales lot.

1. Not more than one travel trailer or other recreational vehicle shall be parked on any one lot.

2. No travel trailer or other recreational vehicle shall be used as a dwelling.

3. No travel trailer or other recreational vehicle shall be used as an office or for any other commercial purpose except for approved construction offices.

4. If no City sidewalk is present, the parking of a travel trailer, utility trailer or other recreational vehicle shall only be permitted behind the front property line between the dates of April 15 and October 15. The parking area must be paved in accordance with Chapter 8, Off-Street Parking and Loading, of this Zoning Code. After October 15 and prior to April 15, the parking of a travel trailer, utility trailer and/or other recreational vehicles shall only be permitted behind the building setback line.

5. All travel trailers and recreational vehicles shall conform to and not exceed regulations for height and weight restrictions when used within City boundaries. No vehicle shall be parked or stored in a manner that inhibits or impedes travel on City throughways.

6. Storage or parking of travel trailers and recreational vehicles must not violate any existing Marengo Fire Protection District code.

7. In rear yards and side yards, parking of only the following types of vehicles shall be permitted in addition to private passenger vehicles:

   a. Travel trailer, 35 feet or less in length and not to exceed eight feet in width.

   b. Camper trailer (pop-up) shall be stored in a collapsed position

   c. Pop-up camper, 24 feet or less in length and not to exceed 66 inches in height.

   d. Watercraft, 35 feet or less in length, but not to exceed 12 feet in height, either mounted on a boat trailer or unmounted; also boat trailer without boat mounted.

e. Trailers used as sales offices and/or construction offices or construction storage may remain on a construction site during the period in which the building and/or subdivision is under construction. Upon issuance of the final occupancy permit for a single building project, or the occupancy permit for the final building in a subdivision, all construction trailers must be removed.

5.15 OUTSIDE DISPLAY, SALES AND STORAGE SPECIAL PERMIT

No outside display, sale or storage of materials (raw, semi-finished, or finished in nature), vehicles (including tractor trailers), equipment, merchandise and other similar goods or containers, shall be permitted except by issuance of a special permit unless specifically allowed in the use restrictions section in the specific zoning district. Consideration for the issuance of an Outside Display, Sales and Storage Special Permit shall be based upon the following criteria:

1. A site plan, site lighting plan, site design plan, landscape plan, engineering plan and building elevations shall be provided, as applicable, to demonstrate that the proposed special use will not have a negative effect upon the surroundings or adjacent properties. An engineering plan that addresses stormwater management in accordance with Chapter 28 of the Marengo Municipal Code shall be required where paving of display, sales or storage areas occurs, since such paving will contribute to or increase on-site run-off.

2. An on-site circulation plan for both pedestrians and vehicles, illustrating the location of the outdoor display, sales or storage area, shall be provided that demonstrates that no adverse effect on circulation, parking or general functioning of the site will occur.

3. All outdoor storage areas shall be enclosed by a screening fence, wall or densely planted evergreen hedge and associated appropriate landscaping treatment, of a height sufficient to screen such containers, storage areas or products from view of adjoining properties of public and private streets. The primary requirement shall be for landscaping screening. The substitution of walls or fencing shall be deemed a secondary solution subject to proof of hardship. Stored materials shall not exceed the height of the screening, and no materials, goods, vehicles and the like shall be displayed, sold or stored outside of the screened area. Solid latch able doors or gates thereto shall be required. Walls or fencing shall be of the same material as the principal building or shall be of a compatible material. The City shall reserve the right to regulate the nature, height and location of the screening and to impose any other terms and conditions as is deemed in the best interests of the City as part of the review of the special use.

4. Written evidence shall be provided that standards and requirements for health, safety and environmental protection by the City, as well as those required by jurisdictions other than the City, have been met.

5. All activities involving the manufacturing, fabricating, assembly, disassembly, repairing, cleaning, servicing and testing of materials, products, vehicles and goods shall be deemed ineligible for an Outside Display, Sales and Storage Special Permit and shall be conducted

solely within completely enclosed buildings.

6. All display, sales and storage areas shall be confined to locations in the rear of the building erected on the premises, or at the side of said building and behind the front line of said building as extended, but not both, unless the petitioner can demonstrate that no adverse impact is created.

7. Anything displayed, sold or stored outdoors that has a tendency to be windborne shall be effectively covered so it does not become windblown.

8. All areas to be used for outside display, sales or storage shall be covered with a hard surface, such as two inches of asphalt or four inches of concrete, or as the City shall otherwise require.

9. Existing outside display, sales or storage uses that are rendered nonconforming by virtue of enactment of these regulations shall be made conforming with the issuance of an Outside Display, Sales and Storage Special Permit by the City or shall be removed on or before December 31, 2002.

5.16 USE OF COMMERCIAL TRUCK TRAILERS AND RAILROAD CARS FOR STORAGE

Under no circumstances may commercial truck trailers and/or railroad cars be placed on any lot for the purpose of serving as a place for storage.

5.17 REFUSE CONTAINERS

Multifamily residential dwellings with four or more dwelling units shall place all refuse containers in visually screened areas. All multifamily units that have refuse containers which are one or more cubic yards in volume shall be in visually screened areas.

5.18 DETERMINATION OF SIMILAR AND COMPATIBLE USES

It shall be the duty of the Zoning Administrator to review and determine whether uses that are not specifically enumerated in any zoning district are similar and compatible to those use/uses that are specifically enumerated within a particular district. The Zoning Administrator may approve any such use/uses within a particular district, upon a finding by the Zoning Administrator that such use/uses are similar and compatible to those use/uses enumerated within the particular district for which the use is being requested. The approval or denial of such use/uses within a particular district by the Zoning Administrator shall be in writing, stating the reasons therefor, and the determination of the Zoning Administrator shall be appealable to the Planning and Zoning Commission. Any appeals from the determination of the Zoning Administrator must be in writing, specifying the grounds for appeal, and filed with the office of the Zoning Administrator within 30 days of the written determination of the Zoning Administrator. Any appeal from a decision of the Zoning Administrator pursuant to this Section 5.14 shall be processed in accordance with the provisions of Section 13 of this Zoning Code. *pjh:Marengo.Zone\Section05.GeneralProvisions.Jan08.doc*

Section 6
NON-CONFORMING BUILDINGS AND USES

6.01 Purpose
6.02 Nonconforming Lots
6.03 Residential Districts
6.04 Business, ORI and Manufacturing Districts
6.05 Two or More Lots in Common Ownership
6.06 Nonconforming Structures
6.07 Nonconforming Uses Occupying a Structure
6.08 Nonconforming Use of Land

6.01 PURPOSE

The requirements imposed by this Zoning Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures and uses of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. The regulations of this Section 6 are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

6.02 NONCONFORMING LOTS

Any vacant lot that does not conform to 1 or more of the lot size (area, dimensions) requirements of the district in which it is located, may be used in the manner indicated in this Zoning Code if such vacant lot:

1. Is lot of record on the date of the adoption or amendment of this Zoning Code; and

2. Has continuously remained in separate ownership from abutting tracts of land throughout the entire period during which the creation of such lot was prohibited by any applicable zoning or other ordinance; and

3. Is at least 50 feet wide.

6.03 RESIDENTIAL DISTRICTS

In any residential district, 1 principal building and related accessory structures, but no other use, may be erected on any vacant nonconforming lot of the type described above provided all other bulk and yard regulations of the particular district are observed.

6.04 BUSINESS, ORI AND MANUFACTURING DISTRICTS

In the manufacturing district, ORI and in any business district, any structure permitted in the particular district may be erected on any vacant nonconforming lot of the type described above if all other bulk and yard requirements of that district are met.

6.05 TWO OR MORE LOTS IN COMMON OWNERSHIP

If 2 or more lots or combinations of lots and portions of lots with continuous frontage were in common ownership on the effective date of this Zoning Code, and if 1 or more of those lots does not meet the minimum lot width, depth and area requirements of the district in which it is located, the land involved

shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Zoning Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Zoning Code.

6.06 NONCONFORMING STRUCTURES

Any lawful structure which exists on the effective date of this Zoning Code but which could not be erected under the terms of this Zoning Code because of restrictions on lot size, height, setbacks or other characteristics of the structure or its location on the lot may lawfully remain subject to the following provisions:

1. Relocation: No such structure shall be relocated unless it will conform to all the regulations of the district in which it is relocated.

2. Reconstruction: No such structure which is destroyed or damaged by any means shall be reconstructed if the Zoning Administrator determines that the cost of such reconstruction exceeds 50 percent of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the administrator determines the estimated cost of reconstruction is less than 50 percent of the structure's market value at the time of loss, repairs or reconstruction shall be permitted provided such work starts within 6 months from the date the damage occurred and is diligently prosecuted to completion.

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

3. Repairs, Maintenance and Alterations: Ordinary repairs, normal maintenance and nonstructural alterations may be made to a nonconforming building, structure or building containing a nonconforming use, provided that the repairs, maintenance work or nonstructural alterations do not extend or intensify the nonconforming use. *Ord. 03-1-8*

   Structural alterations may be made to a nonconforming building, structure or building containing a nonconforming use only in the following situations:

   a. When the alteration is required by law.

   b. When the alteration will actually result in eliminating the nonconforming use.

   c. When the alteration is made to improve livability in a residential nonconforming structure, provided that no structural alteration shall be made which would increase the number of dwelling units, or the number of bedrooms or the height, or bulk of the buildings.

4. Additions and Enlargements: A nonconforming building or structure, or use within a nonconforming building or structure, shall not be added to or enlarged in any manner unless such nonconforming building or structure and use thereof, including all additions and enlargements thereto, is made to conform to all the regulations of the zoning district in which it is located. *Ord. 03-1-8*

6.07 NONCONFORMING USES OCCUPYING A STRUCTURE

If any lawful use occupying a structure exists on the effective date of this Zoning Code but would not be allowed under the terms of this Zoning Code, such use may lawfully continue subject to the following provisions:

1. Maintenance: Any structure housing a nonconforming use may be maintained through ordinary repairs.

2. Enlargement, Alteration, Reconstruction, Relocation: No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed or relocated unless the use of the structure is changed to a permitted use.

3. Extension of Use: No nonconforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.

4. Yard and Bulk: A building which is nonconforming with respect to yards, floor area ratio or any other element of bulk regulated by this Zoning Code shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformity with respect to the bulk regulations for the district in which it is located.

5. Change of Use: A nonconforming use occupying a structure shall not be changed except to a use permitted under the applicable district regulations.

6. Discontinuance of Use: When a nonconforming use of a structure or of a structure and premises in combination is discontinued for 12 consecutive months or for 18 months during any 3-year period, the nonconforming use shall not thereafter be resumed.

6.08 NONCONFORMING USES OF LAND

Any lawful use of land existing on the effective date of this Zoning Code that would not be permitted under the terms of this Zoning Code may lawfully continue subject to the following provisions:

1. Intensification or Extension of Use: A nonconforming use of land shall not be intensified or extended to occupy a greater area of land than was occupied by such use on the effective date of this Zoning Code.

2. Relocation: No nonconforming use of land shall be moved in whole or in part unless such use upon relocation will conform to all pertinent regulations of the district in which it is proposed to be located.

3. Change of Use: A nonconforming use of land shall not be changed except to a use that is permitted under the applicable district regulations.

4. Discontinuance: When a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not thereafter be resumed. Any subsequent use of such land shall conform to the applicable district regulations.

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Section 7

ACCESSORY BUILDINGS, STRUCTURES AND USES

7.01 Uses Permitted as Accessory Buildings, Structures and Uses
7.02 Location of Accessory Buildings, Structures and Uses
7.03 Construction of Accessory Buildings and Structures
7.04 Number, Height and Size of Accessory Buildings and Structures
7.05 Distance Between Buildings or Structures
7.06 Regulations for Specific Accessory Buildings, Structures and Uses
7.07 Wireless Telecommunications Towers and Antenna Regulations
7.08 Antennas in Residential Zoning Districts
7.09 Antennas in Business and Manufacturing Districts
7.10 Amateur Radio Facilities With Surface Area Exceeding 10 Square Feet
7.11 Additional Regulations for Antennas and Antenna Support Structures in all Zoning Districts
7.12 Non-conforming Accessory Buildings, Structures and Uses

7.01 USES PERMITTED AS ACCESSORY BUILDINGS, STRUCTURES AND USES

The term "accessory building," "accessory structure" or "accessory use" includes, but is not limited to the following permitted accessory buildings, structures or uses; subject, however, to the limitations of this Section 7:

1. For residential uses: private garden house or greenhouse; detached garage; shed or building used for domestic storage; swimming pool; spa/hot tub; yard lights; attached or detached deck, platform or terrace open to the sky; gazebo; dog run; tennis court; and similar structures and buildings for accessory use.

2. For business/commercial uses: storage building for merchandise or materials normally carried in stock as part of a principal use on the same lot and placed as designated on an approved site plan; off-street parking and loading facilities; garages; exterior swimming pools as part of a hotel/motel; pump islands and attached or detached canopies for automobile service stations.

3. For institutional and office uses: storage buildings for materials relating to the principal use on the same lot and placed as designated on an approved site plan; guardhouses and gatehouses; off-street parking and loading facilities; garages.

4. For industrial/manufacturing uses: process or maintenance facilities and storage buildings, clearly subordinate and incidental to the principal use on the same lot and placed as designated on an approved site plan; guardhouses and gatehouses; off-street parking and loading facilities; garages.

7.02 LOCATION OF ACCESSORY BUILDINGS, STRUCTURES AND USES

Amended, 03-81-1

A. Where a substantial part of the wall of an accessory building or structure is part of the wall of the principal building, or where an accessory building is attached to the principal building in a substantial manner as by a roof, such accessory building or structure shall be deemed to be part of the principal building and shall conform to all regulations applicable thereto.

B. No accessory building, structure, or use may be located in a front yard in any zoning district, and on a corner lot, no accessory building, structure or use may be located in any yard adjacent to a street in any zoning district, except as otherwise provided in this Zoning Code and except that a single basketball pole may be located at the side of a driveway for private recreational use.

C. An accessory building, structure, or use may be located in a required rear or side yard setback in any zoning district, as follows:

1. Unless specified within a specific zoning classification, an accessory building, structure or use in a residential zoning area may be located to within 10 feet of the rear lot line and to within seven feet of a side lot line, provided that such building, structure or use is not located on a recorded utility or drainage easement (except for equipment pertaining to said easement), and provided that the wall of an accessory building facing the rear lot line shall contain no openings.

2. No accessory building, structure, or use shall be located within 10 feet of a principal building. Decks, patios, platforms and terraces open to the sky may be attached to the principal building but shall be subject to setback requirements for accessory structures.

3. Storage, process and maintenance buildings in non-residential zoning districts shall be as governed by the applicable district regulations.

D Prohibited accessory buildings, structures and uses:

1. Above-ground or ground storage tanks for oil, gas, fuel or any other material on residential lots;

2. Servants' quarters or similar dwelling units.

7.03 CONSTRUCTION OF ACCESSORY BUILDINGS AND STRUCTURES

Amended, 08-1-4

A. An accessory building or structure shall not be erected prior to the establishment or

construction of the principal building to which it is accessory.

B. All provisions of Chapter 24, Building Code, of the Marengo Municipal Code, are to be followed as they pertain to accessory buildings, structures or uses.

C. Detached carports with posts and a roof structure without enclosed walls are prohibited.

7.04 NUMBER, HEIGHT AND SIZE OF ACCESSORY BUILDINGS AND STRUCTURES *Amended, 08-1-4, 04-3-1, 03-81-1*

A. No detached accessory building or structure shall exceed one story, with a maximum height of 15 feet, six inches unless otherwise provided in this Section 7.04.

B. Detached garages shall not exceed 700 square feet in size.

C. The sum total square footage of all accessory buildings and structures shall not exceed 50 percent of a rear or side yard of a lot unless specified within a specific zoning classification.

7.05 DISTANCE BETWEEN BUILDINGS OR STRUCTURES

The required distance between the principal building and the accessory building or structure shall be as follows, unless otherwise provided in this Section 7.

Between the principal building and the accessory building or structure on the same lot: 10 feet. However, in the case of a deck which is not attached to the principal structure, the required distance from the principal structure to the deck shall not apply.

7.06 REGULATIONS FOR SPECIFIC ACCESSORY BUILDINGS, STRUCTURES AND USES *Amended, 04-3-1*

A. Swimming Pools:

1. In addition to the provisions in Section 24.21 of the Municipal Code, pools for swimming or bathing shall be in compliance with the requirements of this Section 7.06-A. However, these regulations shall not be applicable to any such pool less than 24 inches deep or having a surface area less than 250 square feet except when such pools are permanently equipped with a water recirculating system.

2. A wall of a private swimming pool shall not be located less than 10 feet from any rear or side property line or 10 feet from side lot line abutting a street or 10 feet from any principal structure. A swimming pool shall not be located in any front yard.

3. For the purposes of establishing setbacks, the outer edge of pools and spas/hot tubs shall include all associated decking, walk areas, required fence enclosures and pump

equipment. Pump and filter equipment may be located adjacent to a principal structure.

B. Tents and Recreational Vehicles: No tents, recreational vehicles or camping trailers shall be used, erected or maintained as living quarters. No tents shall be used for the storage of personal property, goods, materials, vehicles or equipment. Tents, however, shall not be prohibited when used for weddings, festivals and other special events subject to conditions placed on other accessory buildings and structures.

C. Mobile Homes and Modular Units: A house trailer, mobile home/office or modular unit, as defined by the Illinois Compiled Statutes, shall not be considered to be permissible as an accessory building, structure or use, or as a principal building, structure or use, and no person shall park, store, occupy or otherwise use a trailer, mobile home/office or modular unit without obtaining a temporary use permit from the City Council.

D. Parking Facilities: Accessory off-street parking facilities may be permitted to be located elsewhere than on the same lot as the building or use to be served by said parking; subject, however, to approval of the City in conjunction with a site plan review of the principal and the accessory buildings or uses.

7.07 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS REGULATIONS

See Section 9 of this Zoning Code.

7.08 ANTENNAS IN RESIDENTIAL ZONING DISTRICTS

No antenna shall be erected, constructed, maintained or operated in any residential zoning district except in conformance with the following regulations:

1. Antennas with Surface Areas of 10 Square Feet or Less: Antennas and antenna support structures having a combined surface area not greater than 10 square feet, and no single dimension exceeding 12 feet, shall be permitted as an accessory use.

2. Antennas, Other Than Amateur Radio Facilities, With Surface Areas Exceeding 10 Square Feet: Antennas and antenna support structures having a combined surface area greater than 10 square feet, or having any single dimension exceeding 12 feet, shall be permitted as an accessory use only in compliance with the following regulations:

    a. Number Limited: No more than one such antenna and antenna support structure may be located on any zoning lot.

    b. Height Limited: No such antenna or antenna support structure shall exceed 12 feet in height unless such antenna and antenna support structure is attached to a building

pursuant to paragraph 2d of this Section 7.08.

c. Diameter Limited: No such antenna or antenna support structure shall exceed 10 feet in diameter.

d. Attachment to Buildings Limited: No such antenna or antenna support structure shall be attached to a principal or accessory structure unless all of the following conditions are satisfied:

i. Size: The antenna and its support structure shall not exceed 15 square feet in area or 12 feet in any dimension.

ii. Height: The antenna and its support structure shall not extend more than 3 feet above the highest point of the building on which it is mounted or the maximum permissible building height, whichever is less.

iii. Mounting: The antenna and its support structure shall not be attached or mounted upon any building appurtenance, such as a chimney. The antenna and its support structure shall not be mounted or attached to the front of any principal building or to the side of any building facing a street, including any portion of the building roof facing any street. The antenna and its support structure shall be designed to withstand a wind force of 80 miles per hour on its own and without the support of guy wires.

iv. Color: The antenna and its support structure shall be a color that blends with the roof or building side on which it is mounted.

v. Grounding: The antenna and its support structure shall be bonded to a grounding rod.

vi. Other Standards: The antenna and its support structure shall satisfy such other design and construction standards as the Building Commissioner determines are necessary to ensure safe construction and maintenance of the antenna and its support structure.

vii. Screening: The antenna and its support structure shall be located so as to provide the maximum, reasonably achievable screening, as determined by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets.

e. Setback from Street: No such antenna or its support structure shall be erected or maintained closer to any street than the wall of the principal building to which it is accessory that is nearest to such street.

f. Guy Wires Restricted: No guy or other support wires shall be used in connection with such antenna or its support structure except when used to anchor the antenna or support structure to an existing building to which such antenna or support structure is attached.

g. Screening: When any such antenna and antenna support structure is ground mounted, appropriate landscaping or fencing shall be located and maintained between such ground-mounted antenna and antenna support structure and each lot line of the property on which it is located so as to provide the maximum, reasonably achievable screening as determine by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than 10 feet in height.

7.09 ANTENNAS IN BUSINESS AND MANUFACTURING DISTRICTS

No antenna shall be erected, constructed, maintained or operated in any business or industry zoning district except in conformance with the following regulations:

1. Antennas with Surface Areas of 10 Square Feet or Less: Antennas and antenna support structures having a combined surface area not greater than 10 square feet, and no single dimension exceeding 12 feet, shall be permitted as an accessory use.

2. Antennas, Other Than Amateur Radio Facilities, With Surface Areas Exceeding 10 Square Feet: Antennas and antenna support structures having a combined surface area greater than 10 square feet, or having any single dimension exceeding 12 feet, shall be permitted as an accessory use only in compliance with the following regulations:

   a. Number Limited: No more than one such antenna and antenna support structure may be located on any zoning lot.

   b. Height Limited: No such antenna or antenna support structure shall exceed 12 feet in height unless such antenna and antenna support structure is attached to a building pursuant to paragraph 2d of this Section 7.08.

   c. Diameter Limited: No such antenna or antenna support structure shall exceed 10 feet in diameter.

   d. Attachment to Buildings Limited: No such antenna or antenna support structure shall be attached to a principal or accessory structure unless all of the following conditions are satisfied:

      i. Height: The antenna and its support structure shall not extend more than 3 feet above the highest point of the building on which it is mounted or the

maximum permissible building height, whichever is less.

ii. Mounting: The antenna and its support structure shall not be attached or mounted upon any building appurtenance, such as a chimney. The antenna and its support structure shall not be mounted or attached to the front of any principal building or to the side of any building facing a street, including any portion of the building roof facing any street. The antenna and its support structure shall be designed to withstand a wind force of 80 miles per hour on its own and without the support of guy wires.

iii. Color: The antenna and its support structure shall be a color that blends with the roof or building side on which it is mounted.

iv. Grounding: The antenna and its support structure shall be bonded to a grounding rod.

(1) Other Standards: The antenna and its support structure shall satisfy such other design and construction standards as the Building Commissioner determines are necessary to ensure safe construction and maintenance of the antenna and its support structure.

(2) Screening: The antenna and its support structure shall be located so as to provide the maximum, reasonably achievable screening, as determined by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets.

v. Setback from Street: No such antenna or its support structure shall be erected or maintained closer to any street than the wall of the principal building to which it is accessory that is nearest to such street.

vi. Guy Wires Restricted: No guy or other support wires shall be used in connection with such antenna or its support structure except when used to anchor the antenna or support structure to an existing building to which such antenna or support structure is attached.

e. Screening: When any such antenna and antenna support structure is ground mounted, appropriate landscaping or fencing shall be located and maintained between such ground-mounted antenna and antenna support structure and each lot line of the property on which it is located so as to provide the maximum, reasonably achievable screening as determine by the Building Commissioner, of such antenna and antenna support structure from view from adjoining properties and public or private streets. Notwithstanding the foregoing, no such screening is required to extend more than ten feet in height.

7.10 AMATEUR RADIO FACILITIES WITH SURFACE AREA EXCEEDING 10 SQUARE FEET

In any zoning district, any antenna and antenna support structure having a combined surface area greater than 10 square feet or having any single dimension exceeding 12 feet that is capable of transmitting as well as receiving signals and is licensed by the Federal Communications Commission as an amateur radio facility must satisfy each of the following conditions:

1. Number Limited: No more than one such antenna support structure with a surface area greater than 10 square feet or any single dimension exceeding 12 feet may be located on any zoning lot.

2. Height Limited: No such antenna support structure shall, if ground mounted, exceed 75 feet in height of, if attached to a building pursuant to this Section 7.10, the height herein specified.

3. Attachment to Buildings Limited: No such antenna or its support structure shall be attached to a principal or accessory structure unless all of the following conditions are satisfied:

    a. Height: The antenna and its support structure shall not extend more than 20 feet above the highest point of the building on which it is mounted.

    b. Mounting: The antenna and its support structure shall not be attached to or mounted upon any building appurtenance, such as a chimney. The antenna and its support structure shall not be mounted or attached to the front of any principal building or to the side of any building facing a street, including any portion of the building roof facing any street. The antenna and its support structure shall be designed to withstand a wind force of 80 miles per hour on its own and without the support of guy wires.

    c. Grounding: The antenna and its support structure shall be bonded to a grounding rod.

    d. Other Standards: The antenna support structure shall satisfy such other design and construction standards as the Building Commissioner reasonably determines are necessary to ensure safe construction and maintenance of the antenna and its support structure.

4. Setback from Street: No such antenna or its support structure shall be erected or maintained closer to any street than the wall of the principal building to which it is accessory that is nearest to such street.

5. Setbacks from Adjacent Buildings: No such antenna or its support structure shall be located in any required sideyard or nearer than one-half the height of the antenna and support structure to any habitable building on any adjacent property.

7.11 ADDITIONAL REGULATIONS FOR ANTENNAS AND ANTENNA SUPPORT STRUCTURES IN ALL ZONING DISTRICTS

A. Certificate of Compliance: In addition to any other provisions, no such antenna or antenna support structure permitted under Sections 7.08-B, 7.09-B and 7.10 shall hereafter be constructed, altered or enlarged in the City unless a certificate of zoning compliance therefor has been issued by the Building Commissioner. An application for such certificate shall be accompanied by two sets of plans, two plats of survey, and electrical, construction and design specifications drawn to scale and showing locations, heights, structural design, and any other pertinent information or certifications deemed necessary by the Building Commissioner to demonstrate compliance with all provisions of the City's Zoning Code and Building Code. When applicable, an application for a certificate of zoning compliance shall include landscaping plans demonstrating that the screening requirements of Sections 7.08-B-7 and 7.09-B-7 will be satisfied within 8 months after the date of the issuance of such certificate. A refundable cash deposit in an amount estimated by the Building Commissioner as necessary to cover the cost of implementing the proposed landscaping and screening must accompany each application for a certificate of zoning compliance for the antenna and antenna support structure. The deposit shall be returned when, but only when, a final inspection by the Building Commissioner confirms that all required landscaping and screening is in place.

B. Unless specifically provided to the contrary, when the regulations of Sections 7.08, 7.09, 7.10 or 7.16 are more restrictive than any other regulations generally applicable within the zoning districts, the provision of Sections 7.08, 7.09, 7.10 and 7.16 shall apply.

C. For purposes of Sections 7.08, 7.09 and 7.10, the surface area of an antenna and its support structure shall be determined by adding together the actual surface area of each solid element or part of the antenna or its support structure, where "solid" is defined to include all air spaces that are fully bounded by solid elements.

D. Except as otherwise expressly provided in Sections 7.08, 7.09 and 7.10, all such antennae and antennae support structures shall be subject to all the provisions of this ordinance applicable to accessory uses and structures.

E. The foregoing special regulations shall not apply to antennae and antennae support structures owned or maintained by the City.

7.12 NON-CONFORMING ACCESSORY BUILDINGS, STRUCTURES AND USES

All accessory buildings, structures and uses heretofore lawfully constructed and not conforming to the provisions hereof are declared legal nonconforming uses and may be permitted to continue to exist, but shall not be reconstructed or altered, and if rebuilt, must conform to existing codes as of

the passage of this Section 7, which is August 26, 2002.

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Section 8

OFF-STREET PARKING AND LOADING

8.01 Purpose
8.02 General Provisions, Parking and Loading
8.03 Additional Regulations, Parking
8.04 Location of Parking Areas
8.05 Off-Street Loading and Unloading
8.06 Formulas for Off-Street Loading and Unloading Requirements
8.07 Number of Parking and Loading Spaces Required
8.08 Additional Parking Regulations

8.01 PURPOSE

The purpose of this Section 8 of this Zoning Code is to alleviate or prevent congestion of the public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the property use.

8.02 GENERAL PROVISIONS, PARKING AND LOADING *Amended, 08-1-4*

A. Procedure: An application for a site plan review, zoning action or building permit for a new or enlarged building, structure or use shall include a plot plan, drawn to scale, and fully dimensioned, showing any parking and/or loading facilities to be provided in compliance with the requirements of this Zoning Code.

B. Extent of Control: The off-street parking and loading requirements of this Zoning Code shall apply as follows:

1. When a building or structure erected prior to or after the effective date of this Zoning Code shall undergo any decrease in number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for the required parking or loading facilities, and further, when said decrease would result in a requirement for fewer total parking or loading spaces through application of the provisions of this Zoning Code thereto, parking and loading facilities may be reduced accordingly, provided that existing parking or loading facilities remaining would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Zoning Code to the entire building or structure as modified.

2. When a building or structure undergoes any increase in the number of dwelling units, gross floor area, seating capacity, number of employees or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said

increase would result in a requirement for additional total parking or loading spaces through application of the provisions of this Zoning Code thereto, parking and loading facilities shall be increased accordingly, provided that existing parking or loading facilities shall be so increased that the facilities would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Zoning Code to the entire building or structure as modified.

3. When any building or structure is hereafter erected, or any use of land hereafter established upon previously vacated land.

4. When the intensity of use of any building, structure or premises is increased.

5. When any existing use of a building, structure or the premises is changed or converted to a new use.

C. Existing Parking and Loading Spaces: Accessory off-street parking and loading spaces in existence on the effective date of this Zoning Code may not be reduced in number unless already exceeding the requirements of this Section 8 for equivalent new construction; in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.

D. Permitted Parking and Loading Spaces. Nothing in this Section 8 shall prevent the establishment of off-street automobile parking or loading facilities to serve any existing use of land or buildings, subject to full compliance with the provisions of this Section 8.

E. Damage or Destruction: Any building, structure or use which is in existence and is a conforming use on the effective date of this Zoning Code and which subsequently shall be damaged or destroyed by fire, collapse, explosion or other cause may be reconstructed, re-established or repaired without meeting current standards for off-street parking or loading facilities, except that parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, it shall not be necessary to restore or maintain parking or loading facilities in excess of those required by this Zoning Code for equivalent new construction.

F. Submission of Plot Plan: Any application for a building permit or for a certificate of occupancy where no building permit is required, shall include a plot plan drawn to scale and fully dimensioned showing any parking or loading facilities to be provided in compliance with this Zoning Code.

G. Use of Parking Facilities: Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Section 8 shall be used solely for the parking of passenger automobiles owned by occupants of the dwellings to which such facilities are accessory or by guests of such occupants.

H. Surfacing: All open off-street parking areas in any zoning district shall be surfaced with asphalt, concrete, brick or brick pavers and pursuant to Section 24.11 of the Marengo Municipal Code.

I. Required Parking and Loading Facilities:

1. Tables for Required Parking and Loading: Requirements governing the number and location of off-street parking and off-street loading facilities in relation to the use of property are established hereinafter in subsections of this Zoning Code. The parking and loading requirements for any use not specified herein shall be the same as for a similar specified use, as determined by Section 8.03 herein.

2. Floor Area: The term "floor area" as employed in this Section 8, in the case of office, merchandising or service types of use, shall mean the gross floor area of a building or structure used or intended to be used for service to the public as customers, patrons, clients, patients, tenants and employees, including areas occupied by fixtures and equipment used for display or sale of merchandise. All calculations shall be pro-rated when floor areas are used as the standard. "Floor areas" for the purposes of this Section 8 shall not include any area used for:

(a) Storage accessory to the principal use of a building.

(b) Incidental repairs.

(c) Processing or packaging of merchandise.

(d) Show windows or offices incidental to the management or maintenance of a store or a building.

(e) Rest rooms.

(f) Utilities/utility rooms.

(g) Dressing, fitting or alteration rooms.

8.03 ADDITIONAL REGULATIONS, PARKING

A. Use of Parking Facilities: Off-street parking facilities accessory to residential uses and developed in any residential zoning district in accordance with the requirements of this Section 8.03 shall be used solely for the parking of motor vehicles owned by occupants of the dwelling units to which such facilities are accessory or by guests of said occupants. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking, repair or storage of commercial vehicles of over one-ton capacity including trucks, trailers, vans and other such vehicles, except when parked temporarily in

making delivery, loading, unloading or service calls.

B. Control of Off-Site Facilities: When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants filed of record in the office of the McHenry County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of parking spaces during the existence of said principal use. However, no parking facilities accessory to a non-residential use shall be located in a residential zoning district.

C. Design and Maintenance:

1. Parking Space Description: A required off-street parking space shall be an area of not less than 171 square feet nor less than nine feet wide by 19 feet long, exclusive of access drives or aisles, ramps, or columns or exclusive of private non-residential driveways or aisles leading to streets. Where parking spaces overhang landscaped areas, spaces may be reduced in length by one foot.

2. Measurement of Space: When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction shall be interpreted as one parking space.

3. Open and Enclosed Spaces: Parking areas may be open or enclosed and the parking facilities provided shall be as approved by the City upon review of the site plan and use.

4. Access: Parking facilities shall be designed with appropriate means of vehicular access to a street in such a manner as will least interfere with the movement of traffic. The design of parking areas shall also minimize conflicts between pedestrian and vehicular movements. Driveway accesses or curb cuts in any zoning district shall be governed by Chapter 24 of the Marengo Municipal Code.

5. Signs: No signs shall be displayed in any parking area within any residential zoning district, except such as may be necessary for the orderly use of the parking facilities as provided in Section 9, Signs, of this Zoning Code.

6. Required Setbacks: No parking space nor portion thereof established on a zoning lot without a building shall be located closer to any right-of-way than the front yard setback required for the zoning district in which the parking space is located. Further, any wall, fence or hedge developed around any parking area shall be subject to the front yard setback requirements of this Zoning Code in the same manner as a building or structure. No parking space shall be designed in such a way so as to cause a vehicle to block a sidewalk.

7. Surfacing: All open off-street parking areas, including driveways, aisles, service drives and aprons, shall be improved with a compacted crushed stone or gravel base, and surfaced with asphaltic or bituminous concrete (also known as "asphalt" and "blacktop"), Portland cement concrete, brick or pavers, pursuant to Section 24.11 of the Marengo Municipal Code.

8. Screening: All open off-street parking areas for eight or more motor vehicles shall be effectively screened by a wall, a solid fence or a densely planted compact hedge along any side which adjoins or is directly across a street from a property in a residential zoning district or an institutional property. Such wall, fence or hedge shall be at least three feet, but not more than five feet, in height and shall be maintained in good condition.

9. In order to reduce heat and glare, to minimize blowing of dust and trash and to reduce the oppressive visual effects of large open parking areas, landscaping shall be provided and maintained with every parking lot that contains eight or more parking spaces.

   a. A landscaping plan (either a separate document or an element of a more inclusive development plan) shall accompany every application for a Certificate of Zoning Compliance to develop any parking lot that will contain eight or more spaces.

   b. The landscaping plan shall include the following information:

      (1) Proposed type, amount, size and spacing of plantings, including trees, shrubbery and ground cover;

      (2) Proposed size, construction materials, drainage and scheduled maintenance of landscaped islands or planting beds; and

      (3) Sketch indicating proposed spatial relationships of landscaped areas, parking spaces, automobile circulation and pedestrian movement.

10. Lighting: Any lighting used to illuminate an off-street parking area shall be arranged to reflect the light away from adjoining properties. Maximum horizontal foot candles as given off by the neighboring property as measured in the following districts shall not exceed:

Zoning District	**Foot Candles**	**Lux**
Single Family	.1	1.0
Multiple Family	.2	2.0
Business	2.0	21.5

Zoning District	Foot Candles	Lux
Manufacturing, ORI	5.0	53.8
Municipal	5.0	53.8

All lighting fixtures erected 20 to 40 feet above ground level shall:

a. Be flat bottom optically controlled sharp cut-offs, approved by the City Engineer;

b. Not be installed with diffusing refractors; and

c. Maintain a ratio of 3:1 or less of lighting fixture spacing to lighting fixture mounting heights.

All lighting fixtures erect from zero to 20 feet above ground level shall:

a. Be of translucent materials and not transparent material, approved by the City Engineer;

b. Not be installed with diffusing refractors; and

c. Lighting fixtures shall not be erected higher than 40 feet above ground level.

Upon the obsolescence or replacement of existing non-conforming lighting in off-street lighting parking areas, lighting shall conform to this Section 8.

D. Special Use Public Parking Areas: Any parking area developed for transient trade, and not accessory to specific principal uses or groups of uses for which parking is required by this Zoning Code, shall be treated as a "special use" as defined in Section 3 herein and as allowed in accordance with the provisions of Section 15 by the City Council.

E. Accessible Parking Spaces:

1. Accessible parking spaces for mobility impaired persons shall be at least 16 feet wide including an eight-foot wide access aisle, and adjacent parking spaces shall not share a common access aisle. All access aisles shall be diagonally striped and shall be provided with a gradual transition to an accessible route to the on-site destination. Such spaces shall also measure 19 feet in length. Where such spaces overhang landscaped areas, spaces may be reduced in length by one foot.

2. The number of spaces required, and their placement within the parking facility, shall be in accordance with State of Illinois accessibility standards. For some uses, a certain number of spaces in any self-park facility shall be set aside for wheelchair access as summarized in the following table:

Total Spaces	Minimum Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of the total
1,001 and over	20 plus 1 per 100 over 1,000 spaces

Some flexibility in the placement of such spaces may be considered if interpretation of such standards permits.

F. Service Area Parking Spaces: Parking spaces located in the rear area of project sites or the service area of a project shall be discouraged. Where permitted, such spaces shall be limited to employee and service parking only.

G. Off-street Guest Parking (Residential Areas): Off-street parking areas intended for residential guest parking shall be located a minimum of 10 feet from any adjacent right-of-way, and shall not be placed in the required minimum side or rear yard areas of any residential zoning lot.

H. Aisle Widths, Lengths: The width and length of all aisles providing direct access to individual parking spaces shall be in accordance with the requirements specified in the table below.

Angle of Parking	Minimum Width of Space Parallel to Aisle	Minimum Length of Space Perpendicular to Aisle	Minimum Width of Aisle
45 degrees	12 feet, 9 inches	19 feet, 9 inches	12 feet
60 degrees	10 feet, 5 inches	20 feet	17 feet
90 degrees	9 feet	19 feet	22 feet

I. Joint Parking Facilities: Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted or required, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

J. Shared Parking Facilities: Cumulative parking requirements for mixed use occupancies may be reduced by the City Council where it can be determined that the peak requirement of the several occupancies occurs at different times (either daily or seasonally). The *Shared Parking* report published by the Urban Land Institute may be used as a guideline in the estimation of parking demand for mixed use buildings and sites.

8.04 LOCATION OF PARKING AREAS *Amended, 03-6-5*

A. Extent of Control: Off-street parking facilities shall be located as hereinafter specified: where a distance is specified, such distance shall be the walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.

1. Residential Districts: Parking spaces accessory to dwellings located in any residential zoning district shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard or side yard with the exception of a paved area not to exceed 22 feet in width at the property line and 33 feet in width overall. Such parking spaces shall not be located any further into the front yard toward the principal structure than the garage and shall be set back from the side property line a minimum of 5 feet. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area. Parking areas constructed after the adoption of this Zoning Code shall be constructed of asphalt or concrete.

2. Non-Residential Uses: All parking spaces accessory to permitted non-dwelling uses located in any residential district generally shall be located on the same lot as the use serviced. However, the Zoning Administrator may allow such parking facilities to be located on another parcel within 200 feet of the use served if the "same lot" requirement is not feasible.

3. Business and Manufacturing Districts:

   a. Parking spaces accessory to any building or use located in any business district shall either be located on the same lot as the principal building or on another parcel within 200 feet of the premises. Parking lots accessory to any business or manufacturing use located in any business district or in a manufacturing district shall be located within 500 feet of the use serviced; provided that no portion of any such parking lot shall extend into any residential district except by special use permit.

   b. In any business or manufacturing district, off-street parking facilities for different buildings or uses may be provided collectively; but only if the total number of spaces located together is not less than the sum of the separate requirements for each use and if all regulations governing location or parking

spaces in relation to the uses served are observed.

4. All parking areas constructed after the adoption of this Zoning Code shall be constructed of asphalt or concrete.

8.05 OFF-STREET LOADING AND UNLOADING

All off-street loading facilities shall conform to the minimum standards indicated below:

1. Size of Space: Every required off-street loading space shall be at least 12 feet wide and 50 feet long, exclusive of aisle and maneuver space, and shall have vertical clearance of at least 15 feet. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

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

3. Surfacing: Every off-street loading area shall be improved with a compacted stone base at least 7 inches thick and surfaced with at least 2 inches of asphaltic concrete.

4. Buffer Strips: No loading space or area for vehicles over 2-ton cargo capacity shall be developed closer than 50 feet to the lot line of any residential district unless space/area is completely enclosed by walls, a solid fence or closely planted shrubbery of sufficient density to block the view from the residential property and in conformity with landscape regulations.

5. Location: Every off-street loading space that is required or provided shall be located on the same parcel of land as the use served and not closer than 50 feet to the intersection of the rights-of-way of 2 or more streets or in required front yards.

8.06 FORMULAS FOR REQUIRED PARKING/LOADING SPACES

In computing the number of parking spaces required by this Zoning Code, the Zoning Administrator shall apply the following rules:

1. In computing parking space requirements based on the number of employees, the maximum number of employees on the premises at any period of the day shall be used. "Employee parking" means "one parking space shall be required per 1.5 employees," unless otherwise stated.

2. In computing parking or loading space requirements on the basis of building floor area, the gross floor area shall be used.

3. Whenever it is necessary to translate gross parking lot area into number of parking spaces; 350 square feet of gross area shall be deemed one parking space.

4. If computation of the number of parking or loading spaces required by this Zoning Code results in a fractional space, any fraction of one-half or more shall be counted as one space.

5. No space or portion thereof needed to satisfy the minimum applicable requirement for number of off-street parking or loading spaces shall be counted as part of the off-street parking or loading spaces required for another structure or use.

8.07 NUMBER OF PARKING AND LOADING SPACES REQUIRED

Off-street parking and loading spaces shall be provided as provided in the following table. For any use that is not listed in the table, the same amount of parking and loading space shall be provided as is required for the most similar listed use. The Zoning Administrator shall make the determination of similarity.

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED (IF ANY)
Automobile car wash/laundry	3 spaces per wash lane	Not applicable
Bank, savings & loan, walk-in	1 space per 300 square feet of floor area plus employee parking	Not applicable
Bank drive-in or automated teller	5 spaces per teller window	Not applicable
Beauty, barber shop	2 spaces per chair plus employee parking	Not applicable
Bowling alley	4 spaces per bowling lane plus additional spaces as required herein for affiliated uses such as restaurants and taverns	Not applicable except as required for affiliated uses
College, business, professional, trade school	1 space for every 3 students that the building is designed to accommodate plus employee parking	On review by the Zoning Administrator
Commercial, office, service	4 spaces per 1,000 square feet of floor area	Not applicable up to 10,000 square feet of floor area; 1 space if more than 10,000 square feet; 1 space plus 1 additional space per 50,000 square feet of floor area in excess of 10,000 square feet
Educational, institutional, church, auditorium	1 space per 4 seats in the largest seating area	Not applicable

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED (IF ANY)
Furniture, appliance store	1 space per 600 square feet of floor area	To 25,000 square feet of floor area; more than 25,000 square feet of floor area 2 spaces plus square feet of floor area in excess of 25,000 square feet
Hospital	1 space per 2 beds plus employee parking	1 space if floor area is 50,001 - 100,000 square feet; 2 spaces if floor area is 100,001 - 200,000 square feet; over 200,000 square feet the number of spaces is determined by the Zoning Administrator
Hotel, motel, boarding house	1 space per unit plus employee parking and additional spaces as required herein for affiliated uses such as restaurants and taverns	Not applicable
Laundromat	1 space per washer plus 1 space per employee	Not applicable
Manufacturing, any manufacturing, other industrial use	1 space for each up to 100,000 square feet; 1 space for each 2,000 square feet in excess of 100,000 square feet	To 20,000 square feet, 1 space; 20,001 - 50,000 square feet, 2 spaces; 50,001 - 90,000 square feet, 3 spaces plus 2 additional spaces per 50,000 square feet of area in excess of 90,000 square feet
Mortuary	1 space per 5 seats plus 1 space per funeral vehicle but not less than 20 spaces per chapel or state room	1 space per 10,000 square feet or more of floor area
Multiple family dwelling	2 spaces per dwelling unit	Not applicable
Municipal or privately owned recreation building or community center	1 for each 2 employees plus spaces adequate in number to the visiting public as determined by the Zoning Administrator	Not applicable
Nursing home	1 space per 5 beds plus employee parking area	To 50,000 square feet of floor area, 1 space; 50,001 -100,000 square feet, 2 spaces; 100,001 - 200,000 square feet, 3 spaces

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED (IF ANY)
Office, generally	4 spaces per 1,000 square feet of floor area	To 30,000 square feet of floor area, none required; 30,000 - 100,000 square feet, 1 space plus 1 additional space per 100,000 square feet of floor area in excess of 100,000 square feet
Refreshment stand, drive-in/drive-through restaurant	1 space per 25 square feet of floor area. 5 stacking spaces per service window	1 space per structure having 10,000 square feet or more of floor area
Restaurant, sit down	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater	1 space per 10,000 square feet or more of floor space
Service station	2 spaces per service staff plus employee parking	Not applicable
Single family and 2-family dwellings	2 spaces per dwelling unit	Not applicable
Tavern	1 space per 4 seats or 1 space per 50 square feet of floor area, whichever is greater	1 space per structure having 10,000 square feet or more of floor area
Theater, drive-in	On review by the Zoning Administrator	Not applicable
Theater, indoor	1 space per 4 seats	Not applicable
Vehicle sales (autos, boats, trailers, etc.)	1 space per 300 square feet of enclosed floor area and up to 10,000 square feet of open lot area	As determined by the Zoning Administrator.

8.08 **ADDITIONAL PARKING REGULATIONS** *Amended, 08-1-4, 03-6-5*

A. In any R-5 Residential District the following parking regulations are also applicable:

1. Except as follows, parking spaces shall not be located in any required front yard:

a. A single family dwelling may have a driveway not to exceed 33 feet in width.

b. A two-family dwelling may have a driveway for each dwelling unit. Each driveway shall not exceed 22 feet in width and shall be separated from the other driveway by a minimum 24 inches of landscaping that has a minimum height of two feet. Grass and/or sod are not classified as landscaping.

2. Each parking space accessory to a multiple family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.

3. All parking areas in this district shall be constructed of asphalt or concrete.

4. Parking shall not be permitted in the required rear yard.

B. In any B-3 Regional Shopping District the following parking regulations are also applicable:

1. Parking:

a. Parking is not allowed in required yards.

b. Parking spaces shall be based on the following:

(1) Office use: four spaces per 1,000 feet of building space.

(2) Retail use: five spaces per 1,000 square feet of building space and outdoor retail space.

2. Loading: Pursuant to Section 8.05 herein.

3. Access Control Requirements:

a. Driveways: All projects are restricted to one driveway for each 250 feet from the nearest driveway (including adjacent properties which intersect with a major roadway)

b. Whenever possible, access to a project shall be provided from cross streets, in place of an additional driveway from major roadway.

c. Driveways shall be located and designed to minimize interference with the operation of left-turn lanes at street intersections.

d. Whenever possible, access between properties should be provided in order to minimize the number of driveways from a property.

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Section 9

WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

9.01 Purpose
9.02 Definitions
9.03 Applicability
9.04 General Requirements
9.05 Permitted Uses
9.06 Administratively Approved Uses
9.07 Special Use Permits
9.08 Buildings or Other Equipment Storage
9.09 Removal of Abandoned Antennas and Towers
9.10 Nonconforming Uses

9.01 PURPOSE

A. The purpose of this Section 9 is to provide specific regulations for the placement, construction and modification of personal wireless service facilities. The provisions of this Section 9 are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Section 9 be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this Section 9 are inconsistent with or in conflict with any other provision of this Zoning Code, the Municipal Code or any ordinance of the City, the provisions of this Section 9 shall be deemed to control.

B. In the course of reviewing any request for any approval required under this Section 9 made by an applicant to provide personal wireless services or to install personal wireless service facilities, the Commission or the City Council, as the case may be, shall act within a reasonable period of time after the request is duly filed with the City, taking into account the nature and scope of the request. Any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.

C. The purpose of this Section 9 is to also establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Section 9 are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;

2. Encourage the location of towers in non-residential areas;

3. Minimize the total number of towers throughout the community;

4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;

6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

8. Consider the public health and safety of communication towers; and

9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, the City shall give due consideration to the City's comprehensive land use plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

9.02 DEFINITIONS

As used in this Section 9 the following terms shall have the meanings set forth below:

Alternative tower structure: Man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Backhaul network: The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

Height: When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting towers and preexisting antennas: Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Section 9, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

9.03 APPLICABILITY

A. New Towers and Antennas: All new towers or antennas in the City shall be subject to these regulations, except as provided in Sections 9.03-B through 9.03-D, inclusive.

B. Amateur Radio Station Operators/Receive Only Antennas: This Section 9 shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive

only antennas. Said antennas are governed by Section 7.10 of this Zoning Code.

C. Preexisting Towers or Antennas: Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Section 9 other than the requirements of Sections 9.04-F and 9.04-G.

D. AM Array: For purposes of implementing this Section 9, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

9.04 GENERAL REQUIREMENTS

A. Principal or Accessory Use: Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

B. Lot Size: For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

C. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the City or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Section 9 or other organizations seeking to locate antennas within the jurisdiction of the City, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

D. Aesthetics: Towers and antennas shall meet the following requirements:

1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. Barbed or razor wire shall not be permitted.

E. Lighting: Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

F. State or Federal Requirements: All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section 9 shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Building Codes; Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

H. Measurement: For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of municipal and county jurisdictional boundaries.

I. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this Section 9 and shall not be regulated or permitted as essential services, public utilities, or private utilities.

J. Franchises: Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the City have been obtained and shall file a copy of all required franchises with the Zoning Administrator.

K. Public Notice: For purposes of this Section 9, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 9.07-B-5-b, Table 2, in addition to any notice otherwise required by Section 17 of this Zoning Code.

L. Signs: No signs shall be allowed on an antenna or tower.

M. Buildings and Support Equipment: Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 9.08.

N. Multiple Antenna/Tower Plan: The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

9.05 PERMITTED USES

A. General: The uses listed in this Section 9.05 are deemed to be permitted uses and shall not require administrative approval or a special use permit.

B. Permitted Uses: The following uses are specifically permitted: Antennas or towers located on property owned, leased, or otherwise controlled by the City provided a license or lease authorizing such antenna or tower has been approved by the City.

9.06 ADMINISTRATIVELY APPROVED USES

A. General: The following provisions shall govern the issuance of administrative approvals for towers and antennas.

1. The Zoning Administrator may administratively approve the uses listed in this Section 9.06.

2. Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Sections 9.07-B-1 and 9.07-B-3 herein and a nonrefundable fee as established by resolution of the City Council to reimburse the City for the costs of reviewing the application.

3. The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Sections 9.04, 9.07-B-4 and 9.07-B-5 herein.

4. The Zoning Administrator shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the Zoning Administrator fails to respond to the applicant within said 60 days, then the application shall be deemed to be approved.

5. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in Section 9.07-B-4 or separation distances between towers in Section 9.07-B-5 by up to 50 percent.

6. In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

7. If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to Section 9.07 herein prior to filing any appeal that may be available under this Zoning Code.

B. List of Administratively Approved Uses: The following uses may be approved by the Zoning Administrator after conducting an administrative review:

1. Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any M Manufacturing District.

2. Locating antennas on existing structures or towers consistent with the terms of Sections 9.06-B-2a and 9.06-B-2b herein.

   a. Antennas on Existing Structures: Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional or multi-family structure of 8 or more dwelling units, provided:

(1) The antenna does not extend more than 30 feet above the highest point of the structure;

(2) The antenna complies with all applicable FCC and FAA regulations; and

(3) The antenna complies with all applicable building codes.

b. Antennas on Existing Towers: An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

(2) Height:

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in Section 9.06-B2b(2)(a) may only occur one time per communication tower.

(c) The additional height referred to in Section 9.06-B2b(2)(a) shall not require an additional distance separation as set forth in Section 9.07. The tower's premodification height shall be used to calculate such distance separations.

(3) Onsite location:

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to Section 9.07-B5. The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section 9.07-B5.

(d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 9.07-B5 shall only be permitted when approved by the Zoning Administrator.

3. New Towers in Manufacturing Districts: Locating any new tower in a manufacturing district, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in Section 9.01 and the requirements of Section 9.04; the tower meets the setback requirements in Section 9.07-B4 and separation distances in Section 9.07-B5; and the tower meets the following height and usage criteria:

   a. for a single user, up to 90 feet in height;

   b. for two users, up to 120 feet in height; and

   c. for three or more users, up to 150 feet in height.

4. Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

9.07 SPECIAL USE PERMITS

A. General: The following provisions shall govern the issuance of special use permits for towers or antennas by the Commission.

1. If the tower or antenna is not a permitted use under Section 9.05 herein or permitted to be approved administratively pursuant to Section 9.06 herein, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

2. Applications for special use permits under this Section 9.07 shall be subject to the procedures and requirements of Section 15 of this Zoning Code, except as modified in this Section 9.07.

3. In granting a special use permit, the Commission may impose conditions to the extent the Commission conclude such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

4. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

5. An applicant for a special use permit shall submit the information described in this Section 9.07 and a non-refundable fee as established by resolution of the City Council to reimburse the City for the costs of reviewing the application.

B. Towers:

1. Information Required: In addition to any information required for applications for special use permits pursuant to Section 15 of this Zoning Code, applicants for a special use permit for a tower shall submit the following information:

   a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), comprehensive land use plan classification of the site and all properties within the applicable separation

distances set forth in Section 9.07-B5, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Section 9.

b. Legal description of the parent tract and leased parcel (if applicable).

c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 9.04-C shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

e. A landscape plan showing specific landscape materials.

f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

g. A notarized statement signed by the applicant describing their compliance with Sections 9.04-C, D, E, F, G, J, L and M, Section 9.07-B4, Section 9.07-B5 and all applicable federal, state or local laws.

h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the City.

j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

k. A description of the feasible location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

2. Factors Considered in Granting Special Use Permits for Towers: In addition to any standards for consideration of special use permit applications pursuant to Section 15 of this Zoning Code, the Commission shall consider the following factors in determining whether to issue a special use permit, although the Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Commission conclude that the goals of this Section 9 are better served thereby:

a. Height of the proposed tower;

b. Proximity of the tower to residential structures and residential district boundaries;

c. Nature of uses on adjacent and nearby properties;

d. Surrounding topography;

e. Surrounding tree coverage and foliage;

f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

g. Proposed ingress and egress; and

h. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 9.07-B3 herein.

3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology: No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4. Setbacks: The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Commission may reduce the standard setback requirements if the goals of this Section 9 would be better served thereby:

   a. Towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line.

   b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

5. Separation: The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Commission may reduce the standard separation requirements if the goals of this Section 9 would be better served thereby.

   a. Separation from off-site uses/designated areas.

      (1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

      (2) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-Site Use/Designated Area	Separation Distance
Single-family or duplex residential units[1]	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower[2] whichever is greater
Vacant unplatted residentially zoned lands[3]	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

[1] Includes modular homes and mobile homes used for living purposes.

[2] Separation measured from base of tower to closest building setback line.

[3] Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

b. Separation Distances Between Towers:

(1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

(2) Table 2:

Existing Towers - Types				
	Lattice	Guyed	Monopole 75' in height or greater	Monopole less than 75' in height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75' in height or greater	1,500	1,500	1,500	750
Monopole less than 75' in height	750	750	750	750

6. Security Fencing: Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device excluding barb or razor wire fencing; provided however, that the Commission may waive such requirements, as it deems appropriate.

7. Landscaping: The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Commission may waive such requirements if the goals of this Section 9 would be better served thereby.

a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.

b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

9.08 **BUILDINGS OR OTHER EQUIPMENT STORAGE**

A. Antennas Mounted on Structures or Rooftops: The equipment cabinet or structure used in association with antennas shall comply with the following:

1. The cabinet or structure shall not contain more than 300 square feet of gross floor area or be more than 15 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 150 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.

2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 150 square feet or 20 percent of the roof area.

3. Equipment storage buildings or cabinets shall comply with all applicable building codes.

B. Antennas Mounted on Utility Poles or Light Poles: The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

1. In residential districts, the equipment cabinet or structure may be located:

a. In a front or side yard provided the cabinet or structure is no greater than 4 feet in height or 24 square feet of gross floor area and the cabinet/structure is located a minimum of 6 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.

b. In a rear yard, provided the cabinet or structure is no greater than six feet in height or 24 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.

2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than 6 feet in height or 64 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six feet in height or an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.

C. Antennas Located on Towers: The related unmanned equipment structure shall not contain more than 300 square feet of gross floor area or be more than 15 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

D. Modification of Building Size Requirements: The requirements of Sections 9.08-A through 9.08-C may be modified by the Zoning Administrator in the case of administratively approved uses or by the Commission in the case of uses permitted by special use to encourage collocation.

9.09 REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective

until all users cease using the tower.

9.10 NONCONFORMING USES

A. Not Expansion of Nonconforming Use: Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Section 9 shall not be deemed to constitute the expansion of a nonconforming use or structure.

B. Preexisting Towers: Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Section 9.

C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas: Notwithstanding Section 9.09, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Sections 9.07-B4 and 9.07-B5. The type, height and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 9.09.

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Section 10

RESIDENTIAL/AGRICULTURAL DISTRICTS

10.01 Purpose
10.02 ER Estate Residential District
10.03 R-1 One-Family District
10.04 R-2 One-Family District
10.05 R-3 One-Family District
10.06 R-5 Multiple Family District
10.07 AT Agricultural Transition District

10.01 PURPOSE *Amended, 13-__-__*

The residential and AT Agricultural Transition districts set forth herein are established in order to protect public health and promote public safety, convenience, comfort, morals, prosperity and welfare. These general goals include, among others, the following specific purposes:

1. To protect residential areas against fire, explosion, noxious fumes, offensive odors, noise, smoke, vibrations, dust, heat, glare and other objectionable factors.

2. To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle traffic, especially through-traffic, and to alleviate congestion by promoting off-street parking.

3. To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.

4. To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.

5. To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.

6. To provide sufficient space in appropriate locations to meet the probable need for future residential expansion and to meet the need for necessary and desirable services in the vicinity of residences, which increase safety and amenity for residents and which do not exert objectionable influences.

7. To promote the best use and development of residential and agricultural land in accordance with a comprehensive land use plan, to promote stability of residential development and protect the character and desirable development and protect the value of land and improvements and so strengthen the economic base of the City.

Section 10

RESIDENTIAL/AGRICULTURAL DISTRICTS

10.01 Purpose
10.02 ER Estate Residential District
10.03 R-1 One-Family District
10.04 R-2 One-Family District
10.05 R-3 One-Family District
10.06 R-5 Multiple Family District
10.07 AT Agricultural Transition District

10.01 PURPOSE *Amended, 13-__-__*

The residential and AT Agricultural Transition districts set forth herein are established in order to protect public health and promote public safety, convenience, comfort, morals, prosperity and welfare. These general goals include, among others, the following specific purposes:

1. To protect residential areas against fire, explosion, noxious fumes, offensive odors, noise, smoke, vibrations, dust, heat, glare and other objectionable factors.

2. To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle traffic, especially through-traffic, and to alleviate congestion by promoting off-street parking.

3. To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.

4. To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.

5. To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.

6. To provide sufficient space in appropriate locations to meet the probable need for future residential expansion and to meet the need for necessary and desirable services in the vicinity of residences, which increase safety and amenity for residents and which do not exert objectionable influences.

7. To promote the best use and development of residential and agricultural land in accordance with a comprehensive land use plan, to promote stability of residential development and protect the character and desirable development and protect the value of land and improvements and so strengthen the economic base of the City.

10.02 **ER ESTATE RESIDENTIAL DISTRICT** *Amended, 09-9-2, 04-3-1*

It is the purpose of the ER Estate Residential District to establish regulations for larger single family residential lot areas. It is anticipated that neighborhoods in this district shall consist of very low density single family homes. Because of the large size of the lots in this district, the City Council may waive the requirement that dwelling units be connected to City sewer.

1. Dwelling standards:

    a. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

    b. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

2. Accessory buildings: The following accessory buildings shall be permitted on an ER Estate Residential District zoning lot:

    a. Up to a four-car garage, not exceeding 1,400 square feet.

    b. Swimming pool with a bath house not exceeding 300 square feet.

    c. Tennis courts no closer than 25 feet to the property line

    d. Greenhouses (total square feet shall not exceed 300 square feet).

    e. Guest house up to 850 square feet in area if the lot is two acres or more in size. The guest house shall not be rented or leased.

    f. Accessory buildings shall not be located in any required yard.

    g. Accessory buildings shall only be permitted behind the building setback line.

3. Lot requirements:

    a. The minimum lot size is one acre (43,560 square feet) in area.

    b. The minimum lot width shall be 100 feet.

c. The minimum setbacks shall be:

i. Front yard, 50 feet;
ii. Corner side yard setback, 50 feet;
iii. Interior side yard setback, 25 feet;
iv. Rear yard setback, 50 feet; and
v. Maximum lot coverage shall be 30 percent.

4. Permitted uses:

a. Single family detached dwelling on any one platted lot or parcel.

b. Home occupations pursuant to Section 5.11 of this Zoning Code.

c. Group homes, subject to the following:

i. the group home houses no more than 8 persons plus staff;
ii. the group home is licensed or certified by the State of Illinois; and
iii. there is a minimum distance of 1,000 feet maintained between group homes.

d. Lots containing five or more acres may have up to three horses. A stable or barn housing the horses shall be not less than 200 feet from the property line. Horses shall not be permitted in the front yard. No stables or other quarters shall be erected, maintained or used on any portion of the property for stabling or accommodating any cattle, swine, goats, sheep, bees or fowl.

e. Parks and recreational facilities when publicly owned.

5. Special uses:

a. Golf courses including accessory driving ranges, bars, restaurants, meeting and banquet rooms.

b. Country clubs including accessory driving ranges, bars, restaurants, meeting and banquet rooms.

c. Group homes pursuant to Section 16.8 of this Zoning Code.

d. Bed and breakfast establishments.

10.03 **R-l SINGLE FAMILY DISTRICT** *Amended, 09-9-2*

A. Dwelling standards:

1. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

2. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

B. Building allowance: Only one principal building shall be permitted on any one platted lot.

C. Accessory buildings:

1. No accessory building shall exceed 15 feet in height.

2. No part of an accessory building shall be located: closer than 5 feet to the side lot line; closer than 5 feet to the rear lot line; and closer than 10 feet to the principal building.

3. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

4. Use of any accessory structure as a dwelling is strictly prohibited.

5. Accessory building shall not cover more than 30 percent of the rear yard.

6. Accessory buildings are only allowed behind the building setback line.

D. Lot and building requirements:

1. Minimum lot area shall be 14,000 square feet.

2. Minimum lot width shall be 74 feet at the established building line.

3. Minimum principal building setbacks shall be:

a. Front yard setback, 25 feet
b. Corner side yard setback, 25 feet
c. Interior side yard setback is 10 percent of the lot width at the building line, but not less than 10 feet.
d. Rear yard setback, 30 feet
e. Maximum principal structure height, 30 feet

f. Maximum lot coverage, 30 percent

E. Permitted Uses:

1. Single family dwellings

2. Group homes subject to the following:

   a. the group home houses no more than 8 persons plus staff;
   b. the group home is licensed or certified by the State of Illinois; and
   c. there is a minimum distance of 1,000 feet maintained between group homes.

3. Home occupations as provided in Section 5.11 herein.

4. Parks and recreational areas when publicly owned.

F. Special Uses:

1. Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

2. Churches, chapels, temples, synagogues

3. Convents, monastery and religious retreats

4. Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

5. Public library

6. Museums

7. Cemeteries

8. Hospitals and nursing home

9. Planned developments

10. Public utilities

11. Group homes subject to Section 16.8 of this Zoning Code

12. Bed and breakfast establishments

G. No building shall be erected or maintained on any portion of a residential district for manufacturing or industrial purposes; and no noxious or offensive trade shall be carried on upon any portion of a residential district nor shall anything be done thereon which may be or become a legal nuisance to the neighborhood.

10.04 R-2 SINGLE FAMILY DISTRICT *Amended, 09-9-2*

It is the purpose of this district to establish regulations for single family dwellings in established residential neighborhoods. This district is not to be used in newly developed areas.

A. Dwelling standards:

1. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

2. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

B. Building allowance: Only one principal building shall be permitted on any one platted lot.

C. Accessory buildings:

1. No accessory building shall exceed 15 feet in height.

2. No part of an accessory building shall be located: closer than 5 feet to the side lot line; closer than 5 feet to the rear lot line; and closer than 10 feet to the principal building.

3. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

4. Use of any accessory structure as a dwelling is strictly prohibited.

5. Accessory building shall not cover more than 30 percent of the rear yard.

6. Accessory buildings are only allowed behind the building setback line.

D. Lot and building requirements:

1. Minimum lot area shall be 7,500 square feet.

2. Minimum lot width shall be 60 feet at the established building line.

3. Minimum principal building setbacks shall be:

   a. Front yard setback, 25 feet
   b. Corner side yard setback, 20 feet
   c. Interior side yard setback is 10 percent of the lot width at the building line, but not less than 10 feet.
   d. Rear yard setback, 25 feet
   e. Maximum principal structure height, 30 feet
   f. Maximum lot coverage, 30 percent

E. Permitted Uses:

1. Single family dwellings

2. Group homes, subject to the following:

   a. the group home houses no more than 8 persons plus staff;
   b. the group home is licensed or certified by the State of Illinois; and
   c. there is a minimum distance of 1,000 feet maintained between group homes.

3. Home occupations as provided in Section 5.11 herein.

4. Parks and recreational areas when publicly owned.

F. Special Uses:

1. Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

2. Churches, chapels, temples, synagogues

3. Convents, monastery and religious retreats

4. Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

5. Public library

6. Museums

7. Cemeteries

8. Hospitals and nursing home

9. Planned developments

10. Public utilities

11. Group homes subject to Section 16.8 of this Zoning Code.

G. No building shall be erected or maintained on any portion of a residential district for manufacturing or industrial purposes; and no noxious or offensive trade shall be carried on upon any portion of a residential district nor shall anything be done thereon which may be or become a legal nuisance to the neighborhood.

10.05 **R-3 SINGLE FAMILY DISTRICT** *Amended, 09-9-2, 04-5-5*

It is the purpose of this district to establish regulations for single family dwellings in established residential neighborhoods which are in transition. This district is not to be used in newly developed areas.

1. Dwelling standards:

   a. Every one story building hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

   b. Every dwelling of more than one story hereafter erected shall have a floor area measured from the outside of the exterior walls of not less than 1,000 square feet in area on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not frequently or during extended periods for living, eating or sleeping purposes.

   c. Two-family dwelling structures shall have a total floor area of not less than 700 square feet for each dwelling unit including utility rooms but excluding all other areas not used for eating and sleeping purposes.

2. Building allowance: Only one principal building shall be permitted on any one platted lot.

3. Accessory buildings:

a. No accessory building shall exceed 15 feet in height.

b. No part of an accessory building shall be located: closer than 5 feet to the side lot line; closer than 5 feet to the rear lot line; and closer than 10 feet to the principal building.

c. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

d. Use of any accessory structure as a dwelling is strictly prohibited.

e. Accessory building shall not cover more than 30 percent of the rear yard.

f. Accessory buildings are only allowed behind the building setback line.

4. Lot and building requirements:

a. Minimum lot area shall be 7,500 square feet.

b. Minimum lot width shall be 60 feet at the established building line.

c. Minimum principal building setbacks shall be:

i. Front yard setback, 25 feet
ii. Corner side yard setback, 20 feet
iii. Interior side yard setback is 10 percent of the lot width at the building line, but not less than 10 feet.
iv. Rear yard setback, 25 feet
v. Maximum principal structure height, 30 feet
vi. Maximum lot coverage, 30 percent

5. Permitted Uses:

Single family dwellings: a special use permit shall be required for all new construction that abuts a primary thoroughfare designated by a state or federal highway number.

Group homes, subject to the following:

a. The group home houses no more than 8 persons plus staff;
b. The group home is licensed or certified by the State of Illinois; and
c. There is a minimum distance of 1,000 feet maintained between group homes.

Home occupations as provided in Section 5.11 herein.

Parks and recreational areas when publicly owned.

6. Special Uses:

Bed and breakfast establishments

Cemeteries

Churches, chapels, temples, synagogues

Convents, monastery and religious retreats

Conversion of single family dwelling into two-family dwelling only when the following conditions are met:

a. When divided each dwelling unit shall have a minimum of 600 square feet in floor area including space used for utility rooms but excluding all other areas not used for living and/or sleeping purposes.

b. On-site paved parking area shall be provided. Parking areas shall not be in the required yard setback areas with the exception of the driveway; there shall be a minimum of two parking spaces for each dwelling.

c. All other building and yard requirements for this district must be met.

Conversion of existing structures (not including newly constructed structures) into offices for professionals such as physicians, dentists, attorneys-at-law, architects, engineers, music teachers, artists, teachers, accountants, photographers, real estate agents, insurance agents, public stenographers, brokers, business consultants and other professional offices as determined by the Commission. These properties must meet the following conditions:

a. Paved parking approved by the City Council.
b. All parking shall be behind the front building line.
c. Signage shall be approved by the City Council.
d. The subject property shall abut a state designated highway.

Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

Group homes subject to Section 16.8 of this Zoning Code.
Hospitals and nursing homes

Museums

Planned developments

Public library

Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

Public utilities

Two-family dwellings.

7. No building shall be erected or maintained on any portion of a residential district for manufacturing or industrial purposes; and no noxious or offensive trade shall be carried on upon any portion of a residential district nor shall anything be done thereon which may be or become a legal nuisance to the neighborhood.

10.06 R-5 MULTIPLE FAMILY DISTRICT

It is the purpose of this district to establish regulations for multiple family dwelling districts. These regulations establish limitations on the use and character of development so as to take advantage of, and to avoid conflict with, natural topography and existing development.

1. Dwelling Standards

   a. Every one story dwelling hereafter erected shall have a total ground floor area of not less than 1,000 square feet measured from the outside of the exterior walls including utility rooms but excluding cellars, basements, open porches, breezeways, garages or other habitable spaces.

   b. Every dwelling of more than one story hereafter erected shall have a floor area, measured from the outside of the exterior walls of not less than 1,000 square feet on the first floor including utility rooms, but excluding cellars, basements, open porches, breezeways, garages, and other spaces not used frequently or during extended periods for living, eating or sleeping purposes.

   c. Two-family dwelling structures shall have a total floor area of not less than 700 square feet for each dwelling unit including utility rooms but excluding all other areas not used for eating or sleeping purposes.

   d. Multiple family dwelling structures shall have a total floor area of not less than the following:

      i. Efficiency apartments shall have a floor area of no less than 600 square feet per dwelling unit.

ii. One bedroom apartments shall have a total floor area of not less than 800 square feet per dwelling unit.

iii. Apartments of more than one bedroom shall have a total floor area of not less than that required for a one bedroom apartment plus 150 square feet of floor space for each additional bedroom.

2. Building allowance: Only one principal building shall be erected on any single platted lot.

3. Accessory buildings:

a. No accessory building shall exceed 15 feet in height.

b. No part of an accessory building shall be located closer than: 10 feet to the side lot line; 5 feet to the rear lot line; and 10 feet to the principal building.

c. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.

d. Use of any accessory structure as a dwelling is strictly prohibited.

e. Accessory building shall not cover more than 30 percent of the rear yard.

f. Accessory buildings shall only be permitted behind the building setback line.

4. Lot and building requirements:

a. The minimum lot area shall be as follows:

i. Single family dwelling, 14,000 square feet.

ii. Two-family dwelling, 14,000 square feet.

iii. Multiple family dwelling, 5,000 square feet for each dwelling unit but not less than 14,000 square feet total. This standard applies to new construction. This standard also applies to the conversion of homes originally constructed as single family dwelling into a building which has more than three dwelling units within one structure.

b. The minimum lot width shall be 60 feet at the established building line.

c. The minimum principal building setbacks shall be:

i. Front yard, 25 feet. For buildings exceeding 25 feet in height, the minimum front year shall be increased by one foot for each 2 feet or fraction thereof by which the building exceeds 25 feet.

ii. Corner side yard, 20 feet.

iii. Interior side yard, 10 percent of the lot width at the building line but no less than 10 feet.

iv. Rear yard, 25 feet.

For through lots the setback from each street shall be the same as the front yard requirements.

d. Maximum lot coverage is 30 percent;

e. Maximum height is limited to 3 stories and 50 feet.

5. Permitted Uses:

Group homes, subject to the following:

a. the group home houses no more than 8 persons plus staff;
b. the group home is licensed or certified by the State of Illinois; and
c. there is a minimum distance of 1,000 feet maintained between group homes.

Home occupations pursuant to Section 5.11 of this Zoning Code.

Multiple family dwellings

Parks and recreation areas when publicly owned

Single family dwellings

Two-family dwellings

6. Special Uses:

Barber shops and/or beauty shops

Bed and breakfasts

Cemeteries

Churches, chapels, temples, synagogues

Convents, monastery and religious retreats

Convenience stores

Conversion of existing structures (not including newly constructed structures) into offices for professionals such as physicians, dentists, attorneys-at-law, architects, engineers, music teachers, artists, teachers, accountants, photographers, real estate agents, insurance agents, public stenographers, brokers, business consultants and other professional offices as determined by the Commission. These properties must meet the following conditions:

a. Paved parking approved by the City Council.
b. All parking must be behind the front building line.
c. Signage shall be approved by the City Council.
d. The subject property shall abut a state designated highway.

Drug stores

Golf courses including accessory uses such as driving ranges, bars, restaurants, meeting and banquet rooms. This does not include miniature golf courses and pitch and putt courses.

Group homes subject to Section 16.8 of this Zoning Code.
Hospitals

Medical and dental offices and group medical centers

Mobile home and manufactured home park designed and intended for residential purposes, provided they meet the following requirements:

a. Single family dwelling units only

b. Each dwelling unit shall be located on a lot which has a minimum size of 5,000 square feet in area with a minimum lot width of 35 feet.

c. Each lot must front on a street

d. Streets (including public and private) shall have a minimum of a 60-foot right-of-way and a pavement width of 30 feet (face to face). The pavement structure shall consist of 6” BBC base, 2” Class B surface or 6” PC concrete, or 10” aggregate base, Type B (100% crushed), 2½” Class I surface (1½” binder and 1’ surface). Curb and cutter (M-6.12, B-6.12) are required. A 4-foot wide sidewalk is required unless an off-street system is provided and approved by the City Council.

e. Each unit shall be properly anchored by a method which is approved by the City.

f. Each unit will contain a NOAA early warning weather radio

g. Each park will have a minimum of 10 units

h. Common recreational areas shall be provided as follows:

i. Up to 20 units, 700 square feet per unit.

ii. 21 to 50 units, 14,000 square feet plus 600 feet per unit in excess of 20 units.

iii. 51 to 100 units, 32,000 square feet plus 400 feet per unit in excess of 51 units.

i. A minimum of 2 off-street parking spaces per individual lot shall be provided.

j. All lots must be serviced by City water and sewer. The size of the mains shall be determined by the City Engineer.

k. All utilities shall be placed underground.

l. No sales of new or used units by dealers or brokers shall be permitted unless the unit has been placed on a lot and connected to City sewer and water.

Museums

Planned developments

Public library

Public or private schools (elementary, middle, high, junior college, university) including playground and athletic fields.

Public utilities

Religious retreats

Restaurants

Rest homes, nursing homes hospitals, sanitariums which are licensed and /or registered

10.07 AT AGRICULTURAL TRANSITION DISTRICT *13*-__-__

The AT Agricultural Transition District is intended to anticipate expansion of the City into agricultural areas (lands). At the time agricultural areas are annexed into the City, the dwelling standards, building allowance, accessory buildings and lot and building requirements of the McHenry County Zoning Ordinance, as amended September 15, 2009, are applicable until such time as the property owners petition for re-classification pursuant to this Zoning Code. The following uses are designated for the AT Agricultural Transition District:

USE	**TYPE OF USE**
Animal: exotic, breeding and training	Special use
Animal: show, circus	Temporary
Arena, equine enclosed	Special use
Auction	Temporary
Beach, private	Permitted
Beach, public	Special use
Blacksmith shop (horse related)`	Permitted
Cemetery	Special use
Christmas tree sales	Temporary
Clinic, large animal	Special use
Clinic, small animal	Special use
Single family dwelling	Special use
Electrical distribution center (non-exempt)	Special use
Festival	Temporary
Flea market	Temporary
Game breeding (for sport)	Special use
Golf, country club	Special use
Golf, driving range	Special use
Grain elevator, commercial	Special use
Greenhouse, commercial	Special use
Horse farm	Permitted
Kennel, commercial	Special use
Kennel, private	Special use
Nursery, commercial	Special use
Public service, fire and rescue	Special use
Public service, police	Special use
Roadside sales stand for produce grown on premises	Special use
Stable, private	Special use
Stable, public	Special use
Stable, public (i.e. livery)	Special use
Tent theater, religious meeting, festival	Temporary
Tower	Special use
Utility facility, non-exempt	Special use
Utility, power producer	Special use

Section 11
BUSINESS DISTRICTS

11.01 Purpose
11.02 B-1 Central Business District
11.03 B-2 General Business District
11.04 B-3 Regional Shopping District
11.05 BP, Business Park District

11.01 PURPOSE

The business districts set forth herein are established to protect public health and promote public safety, comfort, convenience and the general welfare, and to protect the economic base of the City and the value of property. These general purposes include, among others, the following specific objectives:

1. To promote the most desirable use of land in accordance with a well considered plan so that adequate space is provided in appropriate locations for the various types of business uses, thereby protecting and strengthening the economic base of the City.

2. To place in separate districts those businesses which may create noise, odors, hazards, unsightliness or which may generate excessive traffic.

3. To permit selected business uses in districts where adjacent to or inclusion in a residential area has sufficient elements of service or convenience to such areas to offset the disadvantage.

4. To encourage the grouping in appropriate locations of compatible business uses which will tend to draw trade that is mutually interchangeable and so promote public convenience and business prosperity and contribute to the alleviation of traffic and pedestrian congestion.

5. To provide for the establishment of off-street parking facilities, permitted and required, so as to alleviate traffic congestion and so promote shopping convenience and business prosperity.

11.02 B-1 CENTRAL BUSINESS DISTRICT *Amended, Ord. 04-3-1*

A. Purpose: A pedestrian-oriented district geographically designated within the central core of the City in which retail and service uses are provided.

B. Use Restrictions:

   1. Retail/office only: All establishments located in this district shall deal directly with patrons

2. Enclosed activities: All activities must be located in an enclosed building (except as indicated in the following paragraph 3).

3. Enclosed activities: Merchandise may be displayed outside but may not use more than 25 percent of the enclosed building square footage.

4. Processing incidental: Any processing or treatment of goods on any premises must be clearly incidental to the retail business conducted on such premises.

5. Drive-in/through: In this district a special use permit is required to establish any business that will offer goods or services directly to customers waiting in parked motor vehicles.

6. Parking: See Section 8, Off-Street Parking and Loading, of this Zoning Code.

7. Signs: See Chapter 16 of the Municipal Code.

8. Unless a special use permit has been issued, dwelling units and lodging rooms shall not be permitted below the second floor. This is not applicable to hotels and motels.

9. Refuse containers: All refuse generated by facilities located within this district shall be stored in covered containers placed in areas screened by a screening fence or densely planted evergreen hedge of adequate height to screen the refuse containers from adjoining properties and the street. Non-conforming refuse containers existing shall comply with this Zoning Code within one year after the adoption of this Zoning Code, which is August 26, 2003.

10. Only one principal building may be erected on any one lot.

C. Lot and Building Requirements: Every building erected in this district shall conform to the following requirements:

1. Minimum lot area: None.

2. Minimum lot width: Twenty feet at the established building line.

3. Minimum lot depth: None.

4. Minimum setback: Generally none required except as necessary to achieve compliance with applicable off-street parking and loading requirements.

5. Maximum floor area ratio: None.

6. Maximum percentage of lot building coverage: None.

7. Height requirements: Maximum height of three stories or 36 feet.

D. Permitted Uses: Provided all the use restrictions of this district are observed, the following uses are permitted:

Auditoriums, meeting rooms and other places of assembly
Banks, savings and loans
Churches
Clubs and lodges
Dry cleaning operations (including on-site processing)
Dwelling units above the first floor only
Funeral establishments
Hotels and motels
Laundries
Libraries
Mass transit facilities
Museums
Offices
Printing and publishing (under 5,000 square feet in area)
Restaurants
Retail establishments
Schools, music studios, dance studios
Service establishments
Taverns/saloons
Theaters (indoors)

E. Special Uses: Provided all the use restrictions of this district are observed, the City may allow the following uses special use permit:

Any use that involves a retail or service activity which is less than 25 percent outside completely enclosed building. (Outside activity which is over 25 percent is prohibited.)

Any use such as drive-in restaurants, drive-in banks, automobile service stations that offer goods or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises.

Auto service station
Dwelling units if located below the second story, except in hotels and motels.
Planned development
Public facilities
Recreational facilities, public and private
Restaurant/saloons with live entertainment
Tattoo parlors
Utility stations

11.03 B-2 GENERAL BUSINESS DISTRICT *Amended, 04-3-1*

This district is intended to accommodate and regulate commercial/business development outside of the B-1 Central Business District. These typically require direct access to major streets and large lots for off-street parking and loading.

1. Use Restrictions:

   a. Uses: These uses shall deal directly with consumers.

   b. Unenclosed activities: In this district, outside display of inventory is allowable up to 25 percent of the indoor floor space under the following conditions:

      i. It is on private property.

      ii. The area is not designated as parking or required open space. Any outside activity in excess of 25 percent of the total enclosed area requires a special use permit.

   c. Refuse containers: All refuse generated by facilities located within this district shall be stored in covered containers placed in visually screened areas. All non-conforming refuse containers shall comply with this Section 11.03 within 1 year from the effective date of this Zoning Code, which is August 26, 2003.

   d. Screening: Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence or closely-planted shrubbery) at least 6 feet high and of sufficient density to completely block the view from the adjacent residential property, shall be installed.

   e. Any accessory building shall meet yard setback requirements.

   f. Only 1 principal building shall be permitted on a zoning lot.

   g. Parking: Pursuant to Section 8, Off-Street Parking and Loading, of this Zoning Code.

   h. Signs: Pursuant to Chapter 16, Signs, of Municipal Code.

   i. Drive-In/through: In this district a special use permit is required to establish any business that will offer goods or services directly to customers waiting in parked motor vehicles.

2. Lot and Building Requirements: Every principal building erected in this district shall conform to the following requirements.

   a. Minimum lot area: 15,000 square feet.

b. Minimum lot width: 100 feet at the established building line.

c. Minimum setbacks: front yard, 50 feet; corner side yard, 50 feet; side yards, 25 feet; and rear yard, 25 feet.

d. Maximum floor area ratio: Two square feet of floor space for each 1 square foot of lot area.

e. Maximum percentage of lot building coverage: 50 percent.

f. Height requirements: Maximum height of 3 stories or 50 feet.

g. General building setbacks: In addition to any other building setback or yard requirement contained herein, every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

Primary thoroughfare designated by a state or federal highway number: 75 feet from the property line or 150 feet from the center line of the right-of-way, whichever distance is greater.

3. Permitted Uses: Provided all the use restrictions of this district are observed, the following uses are permitted:

Auditoriums, meeting rooms and other places of assembly
Automobile car wash/ laundry
Banks, savings and loans
Blueprinting and photostating
Bowling alleys
Churches
Clubs and lodges
Dry cleaning operations (including on-site processing)
Funeral homes
Hotels and motels
Libraries
Mass transit facilities
Museums
Offices
Printing and publishing (under 5,000 square feet in area)
Radio and television broadcasting
Restaurants
Retail establishments
Schools, music studios, dance studios
Service establishments
Taverns/saloons

Theaters (indoors)
Wholesale when used in connection with retail

4. Special Uses:

Any use that involves a retail or service activity conducted more than 25 percent outside completely enclosed buildings.

Any use, such as a drive-in restaurant, drive-in bank or automobile service station, that offers goods or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises.

Automobile repair
Automobile service station
Dwelling units, if located above the first story, except in hotels and motels.
Heating, air conditioning, electrical, plumbing, general contracting; retail, wholesale
Motor vehicle sales, new and used
Movie and stage outdoor theaters
Planned developments
Printing and publishing (over 5,000 square feet in area)
Public facilities
Recreational facilities (public and private)
Restaurants with live entertainment
Tattoo parlors
Utility stations

11.04 B-3 REGIONAL SHOPPING DISTRICT *Amended, 04-3-1*

This district is intended to accommodate and regulate business developments which are directly and indirectly accessed from major arterial roadways.

1. Use restrictions:

   a. In this district all activities shall be conducted within enclosed buildings with the exception that an outdoor area up to 25 percent of the indoor floor space may be used for outdoor sales and display of inventory under the following conditions:

      i. On private property.

      ii. Area is not designated as parking or required open space.

   b. Refuse containers: All refuse generated by facilities located within this district shall be stored in covered containers placed in visually screened areas. Non-conforming refuse containers shall comply within 1 year after the effective date of this Zoning Code, which is August 26, 2003.

c. Along the side and rear lot lines of any lot abutting any residential district, screening (a wall, solid fence at least 6 feet high and of such density to completely block the view from adjacent residential property) shall be installed.

d. Uses shall consist of office, financial or retail-type activities.

e. Signs, see Chapter 16, Signs, of the Municipal Code.

f. Parking, see Section 8, Off-Street Parking and Loading, of this Zoning Code.

g. Only one principal building shall be erected on any one lot.

2. Lot and Building Requirements:

a. Minimum lot area: 5 acres

b. Minimum lot width: 75 feet fronting a major roadway; other roadways, 150 feet at the established building line.

c. Minimum setbacks: front yard, 50 feet; corner side yard, 50 feet; side yards, 35 feet; and rear yard, 35 feet.

d. Maximum floor area ratio: One-quarter square foot of floor space for each 1 square foot of lot area.

e. Maximum percentage of lot coverage: 50 percent (all structures, including principal buildings and accessory buildings shall be included in the 50 percent).

f. Accessory buildings shall meet the minimum setbacks.

g. Height requirements: Maximum height of 3 stories or 50 feet.

h. General building setbacks: In addition to any other building setback or yard requirement contained herein, every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

Primary thoroughfare designated by a state or federal highway number: 75 feet from the property line or 150 feet from the center line of the right-of-way, whichever distance is greater.

3. Permitted Uses:

Animal hospitals (no outside kennel)
Department stores
Dry cleaning operations (including on-site processing)

Financial institutions
Hotels, motels
Medical, dental and general offices
Movie and stage theaters, indoor
Piano and musical, retail only
Professional offices
Restaurants
Retail establishments
Service establishments
Supermarkets
Taverns (including live entertainment)
Variety stores

4. Special Uses:

Any use that requires commercial, service or storage activities conducted outdoors, amounting to more than 25 percent of indoor floor space.

Any use, such as a drive-in restaurant, drive-in bank or automobile service station, that offers goods or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises.

Auto repair and automobile service stations
Drive-in theaters
Motor vehicles sales, new and used
Public facilities
Tattoo parlors
Utility stations
Planned development, commercial

Planned developments, mixed use with residential must meet the following requirements for residential uses:

a. Lot size: 5 acres.

b. Minimum lot width: 250 feet fronting any major roadway; fronting other roadways, 100 feet at established building line

c. Minimum setbacks:

Yard	**Major Roadway**	**Other Roadway**
Front yard	60 feet	40 feet
Corner side yard	50 feet	30 feet
Side yards	40 feet	20 feet

Yard	Major Roadway	Other Roadway
Rear yard	40 feet	30 feet

d. Maximum residential density: 12 units per acre.

e. Minimum unit size: 600 square feet.

6. Minimum percentage of lot coverage: 35 percent

7. Parking and access regulations pursuant to Section 8 of this Zoning Code shall apply.

11.05 **BP, BUSINESS PARK DISTRICT** *06-12-3; Amended, 08-1-4*

A. Purpose: The purpose of the BP, Business Park District is to provide a course of predictability in business park development, set a minimum level of standards by which a business park can be developed and establish a regulatory framework for the planning and development of future business and manufacturing growth.

B. Use Restrictions: All permitted uses in this zoning district are subject to the following conditions:

1. Any production, processing, cleaning, servicing, testing, repair or storage of goods, materials or products shall conform to the performance standards set forth in Section 14, Performance Standards, of this Zoning Code.

2. Except as provided in Section 11.05-B3, no outside display, sale or storage of materials (raw, semi-finished or finished in nature), vehicles (including tractor trailers), equipment, merchandise and other similar goods or containers, shall not be permitted except by the issuance of a special use permit as provided in Section 15, Special Uses, of this Zoning Code.

3. Outside display of retail inventory shall be permitted on up to 25 percent of the indoor floor space with the following conditions: (i) the area is located within the zoning lot; and (ii) the area is not designated as parking or required open space. Any outside activity in excess of 25 percent of the total indoor floor space shall require a special use permit as provided in Section 15, Special Uses, of this Zoning Code.

4. Refuse containers: All refuse generated by facilities located within this zoning district shall be stored in covered containers that are located in an area that is not visible from the street. Screening shall enclose all refuse containers.

5. Screening: Along the side and rear lot lines of any lot abutting a residential zoning district, screening (a wall, solid fence or closely planted shrubbery) at least six feet high and of sufficient density to completely block the view from the adjacent residential property shall be installed.

6. Accessory Uses: Any accessory use shall meet the same required yard setbacks as required for the principal building.

7. Principal Building: Only one principal building shall be permitted on any zoning lot.

8. Parking: Parking shall be pursuant to Section 8, Off-Street Loading, of this Zoning Code.

9. Signs: Signage shall be pursuant to Chapter 16, Signs, of the Marengo Municipal Code.

10. Landscaping: Any new construction after January 1, 2007, shall comply with the requirements of Chapter 21, Landscape Code, of the Marengo Municipal Code.

C. Lot and Building Requirements: Every principal building erected in this zoning district shall conform to the following requirements:

1. Yard Requirements: In addition to any other building setback or yard requirement contained herein, every building hereafter erected or enlarged shall provide and maintain a setback from a public street in accordance with the following requirements:

a. Primary Thoroughfare Designated by a State or Federal Highway Number: 75 feet from the property line or 150 feet from the center line of the right-of-way, whichever distance is greater.

b. Minimum Setbacks: Front yard, 40 feet; corner side yard, 40 feet; interior side yard, 20 feet; and rear yard, 20 feet.

c. Transitional Yards: Where a side or rear lot coincides with a side or rear lot line in an adjacent residential zoning district, a yard shall be provided along such side or rear lot line not less than 50 feet in depth and shall be screened as provided in Section 11.05-B5. Where a side or a rear lot line coincides with a side or rear lot yard in an adjacent business district, a yard shall be provided along such side or rear lot line not less than 30 feet in depth.

2. Maximum Percentage of Lot Building Coverage: 50 percent for a one-story building; 60 percent for buildings containing two or more stories. A mezzanine is not considered a story.

D. Permitted Uses: Provided all the use restrictions of this zoning district are observed, the following uses shall be permitted:

Animal hospitals (with indoor kennels);

Assembly, production, processing, wholesaling, warehousing or manufacturing of any commodity, from semi-finished (other than raw) materials, provided explosives, flammable materials, nuclear materials and/or livestock are not involved;

Animal retail sales;

Auditoriums, meeting rooms and other places of assembly;

Automobile car wash;

Banks, savings and loans;

Blueprinting and photostating;

Bowling alleys;

Building materials sales with indoor storage;

Churches;

Clubs and lodges;

Drycleaning operations (including on-site processing);

Greenhouses with indoor storage;

Funeral homes;

Healthcare and rehabilitation facilities, not involving overnight visits;

Heating, air conditioning, electrical, plumbing, general contracting, retail, wholesale, with indoor storage;

Hospitality;

Hotels and motels;

Indoor recreation facilities;

Institutional;

Library;

Local cartage and express facility, provided explosives, flammable materials, nuclear

materials and/or livestock are not involved, with no outside vehicle storage;

Mass transit facilities;

Museums;

Offices;

Printing and publishing;

Public utility and transportation facilities including shelters, terminals, parking areas and service buildings;

Radio and television broadcasting;

Railroad right-of-way;

Research and development facility or parks, provided explosives, flammable materials, nuclear materials and/or livestock are not involved;

Restaurants;

Retail establishments;

Schools, music studios and dance studios;

Service establishments;

Sleep research facilities with overnight visits;

Taverns, saloons; and

Theater (indoor).

E. Special Uses:

Any use that involves a retail or service activity that is conducted on more than 25 percent outside of a completely enclosed building;

Any use, such as a drive-in restaurant, drive-in bank or automobile service station that offers good or services directly to customers waiting in parked vehicles or that sell food or beverages for consumption in parked motor vehicles on the premises;

Automobile repair;

Automobile service station;

Dwelling units if located above the first story, except in hotels and motels;

Fuel sales and storage;

Motor vehicles sales, new and used;

Movie and stage outdoor theaters;

Non-retail outdoor storage;

Outdoor recreation facilities;

Outdoor storage tanks;

Planned developments;

Recreational facilities (public and private);

Restaurants with live entertainment;

Utility stations; and

Wireless communication facilities.

pjh:Marengo.Zone\Section11.Business.Jan08.doc

Section 12

ORI OFFICE, RESEARCH & LIGHT INDUSTRIAL DISTRICT

12.01 Purpose
12.02 Use Restrictions
12.03 Lot and Building Requirements
12.04 Permitted Uses
12.05 Special Uses

12.01 PURPOSE

The purpose of the ORI Office, Research & Light Industrial District ("ORI District") is to provide areas within the community for low intensity manufacturing, offices, research facilities, research parks.

12.02 USE RESTRICTIONS

All permitted uses are subject to the following conditions:

1. Uses not explicitly provided as permitted or special uses in the ORI District under this Section 12 are prohibited altogether.

2. Parking. See Section 8, Off-Street Parking and Loading, of this Zoning Code.

3. Signs: See Chapter 16, Signs, of the Municipal Code.

4. Accessory buildings shall not be located in any required yard.

5. All permitted uses are subject to the following conditions:

   a. Any production, processing, cleaning, servicing, testing, repair or storage of goods, materials or products shall conform with the performance standards set forth in Section 15 of this Zoning Code.

   b. No outside display, sale or storage of materials (raw, semi-finished or finished in nature), vehicles (including tractor trailers), equipment, merchandise and other similar goods or containers, shall be permitted except by issuance of a special permit pursuant to Section 16 of this Zoning Code.

12.03 LOT AND BUILDING REQUIREMENTS

A. Lot size requirements: None.

B. Yard requirements: In addition to any other building setback or yard requirement contained herein every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

   1. Primary thoroughfare designated by a state or federal highway number: 75 feet from the property line or 150 feet from the centerline of the right-of-way, whichever distance is greater.

   2. Front yard: Not less than 40 feet in depth along every front lot line

3. Interior side yard: Not less than 20 feet in depth along each interior side lot line.

4. Corner side yard: Not less than 40 feet in depth.

5. Rear yard: Not less than 20 feet in depth along each rear lot line.

6. Transitional yards: Where a side or rear lot line in an ORI District coincides with a side or rear lot line in an adjacent residence district, a yard shall be provided along such side or rear lot line not less than 100 feet in depth and shall contain landscaping and plantings suitable to provide a year around effective 25 percent screen.

   Where a side or rear lot line in an ORI District coincides with a side or rear lot line in an adjacent business district, a yard shall be provided along such side or rear lot line not less than 60 feet in depth and shall contain landscaping and planting suitable to provide a year around 25 percent screen.

C. Only one principal building shall be permitted on any one zoning lot.

12.04 **PERMITTED USES**

Permitted uses in the ORI District are:

Accessory retail sales operations and display of merchandise produced on the premises.

Any establishment, the principal use of which is manufacturing, fabricating, processing, light assembly, storing, cleaning or servicing of materials, goods or products provided that operations are conducted within a completely enclosed building and that operations conform with the performance standards and other applicable requirements of this Section 12.

Auditoriums and theaters.

Banks and financial institutions, including drive-in and drive-through facilities.

Business and professional offices.

Computer and/or data processing centers.

Corporate offices.

Cultural facilities.

Engineering and testing facilities

Medical and dental clinics and offices.

Production facilities for prototype products.

Research clinics and laboratories including accessory pilot operations.

Show room space.

12.05 **SPECIAL USES**

Special uses in the ORI District are:

Commercial uses located within permitted and special uses including barber shops and beauty salons; day care centers and pre-schools; drugstores; dry cleaning and laundry establishments; food stores; florists; gift shops; letter and parcel mailing services; restaurants including accessory cocktail lounges, outdoor customer seating, musical entertainment and dancing; shoe repair shops and tailor shops.

Hotels and motels.

Planned developments.

General aviation planned developments.

Public service and facility uses.

Public utilities.

Schools: Vocational, technical, business, data processing, electronic and corporate training centers.

Uses ancillary to permitted and other special uses including meeting and conference facilities, lodging facilities, restaurants and recreational facilities primarily for the private use of the employees, its subsidiaries, affiliates, franchisees and business clients; storage, service and maintenance buildings and areas; central heating and air conditioning plants; dwellings for caretakers, watchmen and operators.

pjh:Marengo.Zone\Section12.ORI

Section 13
M MANUFACTURING DISTRICT

13.01 Purpose
13.02 Use Restrictions
13.03 Lot and Building Requirements
13.04 Permitted Uses
13.05 Special Uses

13.01 PURPOSE

The purpose of the M Manufacturing District ("M District") is to provide areas within the community for manufacturing facilities, research facilities, research park, warehouses and wholesale manufacturing. It is intended that this particular district will generally provide for manufacturing of an assembly nature from finished goods, warehousing and wholesale activities. Supportive services for manufacturing are generally of a non-retail or personal service character and should be encouraged to locate in this district.

13.02 USE RESTRICTIONS

All permitted uses are subject to the following conditions:

1. Any production, processing, cleaning, servicing, testing, repair or storage of goods, materials or products shall conform with the performance standards set forth in Section 15 herein.

2. No outside display, sale or storage of materials (raw, semi-finished, or finished in nature), vehicles (including tractor trailers), equipment, merchandise and other similar goods or containers, shall be permitted except by issuance of a special permit as addressed in Section 16 herein. This requirement does not apply to greenhouses with outside storage.

3. Parking: See Section 8, Off-Street Parking and Loading, herein.

4. Signs: See Chapter 16, Signs, of the Municipal Code. *Amended, Ord. 03-1-8*

   a. Free standing signs, with the exception of monument and shopping center identification signs, are prohibited.

5. Accessory buildings shall not be located in any required yard.

6. Only one principal building shall be permitted on any one lot.

7. Free standing signs, with the exception of monument and shopping center identification signs.

13.3 LOT AND BUILDING REQUIREMENTS

A. Lot size requirements: None.

B. Yard requirements: In addition to any other building setback or yard requirement contained herein every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

   1. Primary thoroughfare designated by a state or federal highway number: 75 feet from the property line or 150 feet from the centerline of the right-of-way, whichever distance

is greater.

2. Front yard: Not less than 40 feet in depth along every front lot line.

3. Interior side yard: Not less than 20 feet in depth along each interior side lot line.

4. Corner side yard: Not less than 40 feet in depth.

5. Rear yard: Not less than 20 feet in depth along each rear lot line.

6. Transitional yards: Where a side or rear lot line in a M District coincides with a side or rear lot line in an adjacent residence district, a yard shall be provided along such side or rear lot line not less than 100 feet in depth and shall contain landscaping and plantings suitable to provide a year around effective 25 percent screen.

   Where a side or rear lot line in a M District coincides with a side or rear lot line in an adjacent business district, a yard shall be provided along such side or rear lot line not less than 60 feet in depth and shall contain landscaping and planting suitable to provide a year around 25 percent screen.

   Where manufacturing lots front on a street that constitutes the boundary line between manufacturing and residential districts or between manufacturing and business districts, all such manufacturing lots shall provide a front yard of not less than 60 feet in depth.

C. Floor area ratio:

1. Not to exceed 0.4 for one-story buildings.

2. Not to exceed 0.6 for buildings, containing 2 or more stories. A mezzanine is not considered a story.

13.04 PERMITTED USES

Provided all the use restrictions of this district are observed the following uses are permitted:

Animal hospitals (with outside kennels).

Assembly, production, processing, wholesaling or warehousing or manufacturing of any commodity from semi-finished (other than raw) materials, provided explosives, flammable materials, nuclear materials or livestock are not involved.

Building materials sales with outside storage

Equipment sales and service

Greenhouses with outside storage

Local cartage and express facilities, provided explosives, flammable materials, nuclear materials or livestock are not involved.

Printing and publishing

Public utility

Public transportation facilities including shelters, terminals, parking areas and service buildings

Railroad right-of-way.

Research and development facilities or parks, provided explosives, flammable materials, nuclear materials or livestock are not involved.

13.05 **SPECIAL USES**

Provided all the restrictions of this district are observed the following special uses are permitted:

Adult businesses pursuant to Section 16 herein and Section 33.23 and Chapter 44 of the Municipal Code.

Fuel sales and storage

Asphaltic and concrete plans

Building contractor's office with outside storage

Dwelling units for watchmen's quarters

Outside storage on nonasphaltic or concrete pavement

Planned developments of not less than 20 acres

pjh:Marengo.Zone\Section13.Manufacturing

Section 14
PERFORMANCE STANDARDS

14.01 Purpose
14.02 Noise
14.03 Air Pollution
14.04 Water Pollution
14.05 Open Burning
14.06 Toxic or Noxious Matter
14.07 Odors
14.08 Fire and Explosive Hazards
14.09 Vibration
14.10 Glare or Heat

14.01 PURPOSE

Performance standards set forth herein are established to protect the public health, safety, comfort, convenience and the general welfare of the City and to promote a more desirable environment in which to live and work within the City.

14.02 NOISE

No person shall emit beyond the boundary of his property any sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity or so as to violate any rule set forth herein. Lands are to be classified into three classes; Class A is to consist of areas especially noise sensitive in that they incorporate sleeping quarters, namely residential and institutional uses. Class B is to consist of Retail Commercial and Office Commercial land uses, as well as recreational and open space uses. Class C is to include all industrial and manufacturing uses.

The applicable land use designation for undeveloped land shall be determined by the predominant land use of the surrounding property or, if no use is predominant, by the most restrictive designation applicable to any of the surrounding property.

The following standards shall apply.

1. No person shall cause or allow the emission of any noise to abutting Class A property from land used as designated below in excess of the levels specified below, in the designated octave bands, when measured at any point on or beyond the property line of the land on which the noise originates.

Daytime (7:00 a.m. to 10:00 p.m.):

Octave Band Center Frequency	Maximum Sound Pressure Levels (dB) at Emitter's Property Line		
(Hertz)	C	B	A
31.5	75	72	72
63	74	71	71
125	69	65	65
250	64	57	57

500	58	51	51
1000	52	45	45
2000	47	39	39
4000	43	34	34
8000	40	32	32
A-level	61 dB (A)	55 dB (A)	55 dB (A)

NIGHTTIME (10:01 p.m. to 6:59 a.m.):

Octave Band Center Frequency	Maximum Sound Pressure Levels (dB) at Emitter's Property Line		
(Hertz)	C	B	A
31.5	69	63	63
63	67	61	61
125	62	55	55
250	54	47	47
500	47	40	40
1000	41	35	35
2000	36	30	30
4000	32	25	25
8000	32	25	25
A-level	51 dB (A)	45 dB (A)	45 dB (A)

No person shall cause or allow the emission of any noise to abutting Class B property from land used as designated below in excess of the levels specified below, in the designated octave bands, when measured at any point on or beyond the property line of the land on which the noise originates.

24 HOURS PER DAY:

Octave Band Center Frequency	Maximum Sound Pressure Levels (dB) at Emitter's Property Line		
(Hertz)	C	B	A
31.5	88	79	72
63	83	78	71
125	74	72	65
250	69	64	57
500	63	58	51
1000	57	52	45
2000	52	46	39
4000	48	41	34

8000	45	39	32
A-level	66 dB (A)	62 dB (A)	55 dB (A)

No person shall cause or allow the emission of any noise to abutting Class C property from land used as designated below in excess of the levels specified below, in the designated octave bands, when measured at any point on or beyond the property line of the land on which the noise originates.

24 HOURS PER DAY:

Octave Band Center Frequency	Maximum Sound Pressure Levels (dB) at Emitter's Property Line	
(Hertz)	C	All Other
31.5	88	79
63	83	78
125	78	72
250	73	64
500	67	58
1000	60	52
2000	54	46
4000	50	41
8000	47	39
A-level	70 dB (A)	62 dB (A)

14.03 **AIR POLLUTION**

The City adopts the State of Illinois Environmental Protection Agency Air Pollution Regulations. The State of Illinois Environmental Protection Agency Air Pollution Regulations as adopted by the Illinois Pollution Control Board on April 14, 1972 and published by the Illinois Environmental Protection Agency and all amendments thereto, are hereby adopted by reference and made part of this chapter. One copy of said regulations shall be kept on file in the City Hall for public inspection. Any person who violates any provision of said regulations shall be subject to the penalties provided for the violation of this Zoning Code.

14.04 **WATER POLLUTION**

The City adopts the State of Illinois Environmental Protection Agency Water Pollution Regulations. The State of Illinois Environmental Protection Agency Water Pollution Regulations as adopted by the Illinois Pollution Control Board on March 7, 1972 and published by the Illinois Environmental Protection Agency and all amendments thereto, are hereby adopted by reference and made part of this Section 14. One copy of said regulations shall be kept on file in the City Hall for public inspection. Any person who violates any provision of said regulations shall be subject to the penalties provided for the violation of this Zoning Code.

14.05 **OPEN BURNING**

The City adopts the State of Illinois Environmental Protection Agency Open Burning Pollution Regulations. The State of Illinois Environmental Protection Agency Open Burning Regulations as adopted by the Illinois Pollution Control Board on September 2, 1971 and published by the Illinois Environmental Protection Agency and all amendments thereto are hereby adopted by reference and made part of this Section 14. One copy of said regulations shall be kept on file in the City Hall for public inspection. Any person who violates any provision of said regulations shall be subject to the penalties provided for the violation of this Zoning Code.

14.06 TOXIC OR NOXIOUS MATTER

No use shall, for any period of time, emit into the atmosphere, store on site, dispose on site or discharge across the boundaries of the lot wherein it is located, toxic or noxious matter in such concentrations as to be detrimental to, or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.

14.07 ODORS

The emission of odorous material in such quantity as to be readily detectable at any point along lot lines, or as to produce a public nuisance or hazard beyond lot lines is prohibited.

14.08 FIRE AND EXPLOSIVE HAZARDS

The BOCA Basic Fire Prevention Code (current edition) shall be applicable to all buildings, structures and appurtenances thereof.

14.09 VIBRATION

Any operation or activity which shall cause, at any time and at any point along the nearest adjacent lot line, earth borne vibrations (other than background vibrations produced by some source not under control of this Zoning Code), such as the operation of motor vehicles or other transportation facilities, in excess of the limits set forth in Column I herein, is prohibited. In addition, any operation or activity which shall cause at any time and at any point along a residential boundary line, earth borne vibrations in excess of the limits set for in Column II herein is prohibited. Vibration shall be expressed as displacement in inches and shall be measured with a three component measuring system approved by the City.

Frequency (Cycles per Second)	I* Displacement (inches)	II* Displacement (inches)
0 to 10	.0008	.0004
10 to 20	.0005	.0002
20 to 30	.0002	.0001
30 to 40	.0002	.0001
40 and over	.0001	.0001
* Steady state vibrations, for the purpose of this Zoning Code, which are continuous or, if in discrete pulses, are more frequent than 100 per minutes. Impact vibrations, that is, discrete pulses which do not exceed 10 impulses per minute, shall not cause in excess of twice the displacements stipulated.		

14.10 GLARE OR HEAT

No use or activity shall be permitted which causes glare or heat to be transmitted or reflected in such quantities as to be detrimental or harmful to the use of adjacent properties.

pjh:Marengo.Zone\Section14.Performance

Section 15

SPECIAL USES

15.01 Purpose
15.02 General Requirements
15.03 Standards for Special Uses
15.04 Motor Vehicle Special Uses
15.05 Motor Vehicle Service Stations
15.06 Kennels
15.07 Rest Homes, Nursing Homes
15.08 Group Homes
15.09 Earth Materials Extraction, Processing, Site Reclamation and Related Operations
15.10 Adult Businesses
15.11 Bed and Breakfast Establishments
15.12 Conditions of Approval

15.01 PURPOSE

The principal objective of this Zoning Code is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the City. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Zoning Code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of their unusual characteristics or the service they provide the public. These "special uses" require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community. The conditions controlling the location and operation of such "special uses" are established by the following provisions of this Section 15.

15.02 GENERAL REQUIREMENTS

The general requirements of the specific zoning district in which the requested use will be located are applicable except where specifically modified by a special use permit. All conditions and requirements, as determined by the City Council and based on recommendations of the Planning and Zoning Commission and City staff, shall be considered as additions to the general requirements as found in this Zoning Code. The special use permit shall include the approved specific conditions required to address circumstances unique to the proposed use.

15.03 STANDARDS FOR SPECIAL USES

The City Council may authorize a special use permit as provided herein upon determining and finding as fact, the following:

1. That the proposed use will not be detrimental to the public health, safety, comfort or general welfare, nor substantially diminish or impair the value of other properties or improvements in the vicinity.

2. That the proposed use will comply with the regulations of the zoning district in which it is located and this Zoning Code generally, including, but not limited to all applicable yard and bulk regulations, parking and loading regulations, sign control regulations, wetlands and flood plain regulations, building and fire codes, and all other applicable City ordinances, or if exceptions are requested, that such exceptions are justified.

3. That the proposed use will not negatively impact the existing off-site traffic circulation; will adequately address on-site traffic circulation; will provide adequate on-site parking facilities; and if appropriate or required, will contribute financially, in proportion to its impact, to upgrading roadway systems.

4. That the proposed use will not negatively impact existing public utilities, facilities and municipal service delivery systems without due consideration for adequate means of upgrading such utilities, facilities and systems.

5. That the proposed use will not negatively impact the environment by creating air, noise or water pollution, ground contamination, or unsightly views without due consideration for adequate means of controlling, mitigating or buffering such impacts.

6. That the proposed use will maintain, where possible, existing mature vegetation; provide adequate screening to residential properties; and provide appropriate landscaping.

7. That the proposed use will meet standards and requirements established by jurisdictions other than the City, such as federal, state, county or other governmental units or agencies requiring licensing, permitting or health/safety inspections, and submit written evidence thereof.

8. That the proposed use shall conform to the regulations established for specific special uses as provided in this Section 15.

15.04 MOTOR VEHICLE SPECIAL USES

Motor vehicle sales and services, parking; used car sales; and sales and service of agriculture implements shall be a special use in any business district. Before a Certificate of Zoning Compliance is issued for any sales and/or used motor vehicle car sales lot special use, the following requirements must be met:

1. The applicant shall demonstrate that the proposed use is economically compatible with existing uses.

2. The special use will not injure surrounding property values.

3. Lighting sources shall be directed away from surrounding properties.

4. Display area shall have a paved surface.

In the event that a sales and/or used motor vehicle sales lot is proposed to be established on a previously improved zoning lot where no Certificate of Zoning Compliance was required, the requirements of this Section 15.04 must be met prior to the issuance of any occupancy permit for such use.

15.05 MOTOR VEHICLE SERVICE STATION

Motor vehicle service station shall be a special use subject to the following:

1. All gasoline pumps and other service facilities shall be located at least 25 feet from any street right-of-way line, side lot line or rear lot line.

2. Every access way shall be located at least 200 feet from the principal building of any fire station, school, public library and church at least 30 feet from the corner of the lot when the lot is at the intersection of public streets.

3. All trash receptacles, except minor receptacles adjacent to the gasoline pumps, shall be screened from view.

4. Whenever the use of a service station has been discontinued for 12 consecutive months or for 18 months during any three-year period, the Zoning Administrator shall order that all underground storage tanks be removed or filled with material approved by the fire chief.

5. Auto repair stations:

    a. All body shop repairs to motor vehicles shall be conducted wholly within an enclosed building whose doors shall be kept shut tightly during all body repairs or painting work. Such enclosed building shall be located at least 40 feet from the nearest property line with doors not facing toward any residentially zoned or occupied lot.

    b. There shall be no outside parking of motor vehicles except on a temporary basis not to exceed 14 days. Junk parts and junk vehicles shall not be kept outside the building unless in an enclosed privacy fence. This fence must meet all City fence requirements.

    c. Parking shall be provided on the site at a ratio of one parking space for each 3,000 square feet of site area.

15.06 KENNEL SPECIAL USE

A kennel is considered a special use subject to the following:

1. The lot on which the kennel is situated shall have a minimum of three acres.

2. Every kennel shall be located at least 200 feet from the nearest dwelling and not less than 100 feet from any lot line.

15.07 REST HOMES, NURSING HOMES

Rest home and nursing home are a special use in any use district provided that when located in a business district such uses shall be established above the first floor when located in a building constructed for a business use. A building originally constructed for residential use in a business district may be used in whole or in part for rest homes or nursing homes.

15.08 GROUP HOMES

Group home is a special use in any residential zoning district that is licensed or certified by the State of Illinois, supervised and has 9 or more persons plus staff, subject to the following:

1. A minimum distance of 1,000 feet is maintained between group homes;

2. The group home conforms to all current provisions of the Zoning Code, City building code and State of Illinois licensing standards, if applicable to the use. Said conditions may be waived by the City Council.

15.09 EARTH MATERIALS EXTRACTION, PROCESSING, SITE RECLAMATION, AND RELATED OPERATIONS

A. Definitions: In addition to the definitions in Section 3 herein, terms (whether capitalized or not) used in this Section 15.09 shall have the following meanings:

Concrete building materials production plant: A facility that incorporates machinery and earth materials to produce cement or concrete-based products used in the construction of structures or in the building and landscaping industry for marketing and sale.

Concrete recycling plant: A facility that incorporates machinery and a supply of used concrete, cement products and debris to crush and process such materials into raw products to be utilized for sale or incorporation into other products. The term "concrete" herein specifically excludes bituminous concrete, also known as asphalt.

Earth materials extraction: The mining of any natural earth materials or minerals, such as gravel, sand, stone, clay or aggregate by removing the overburden lying above natural depos-

its thereof and mining directly from natural deposits thereby exposed, or from the deposition of overburden therefrom. The term "surface mining" shall be deemed synonymous with "earth materials extraction."

Earth materials processing: The transporting, washing, sorting, screening, grading, crushing and similar processing of natural earth materials or minerals, such as gravel, sand or aggregate, in order to prepare such materials for marketing, sale or incorporation into other earth materials-based products.

Ready-mix plant: A facility used for the dispensing of cement, water, stone and sand into mixer trucks in order to create liquid concrete products to be transported off-site for use in construction of concrete structures and products.

B. Intent: The purpose of this Section 15.09 is to recognize that earth materials extraction and processing and related operations, such as ready-mix plants, concrete recycling plants and concrete building materials production plants, as well as the associated exterior storage of raw and recyclable materials, are uses requiring unique regulatory controls to ensure that:

1. Operations are conducted in a manner that are compatible with the natural and man-made environment;

2. Adverse impacts on surrounding areas, including, without limitation, property values, air quality and noise are minimized; and

3. Mined areas are restored to productive use compatible with the surrounding areas.

It is the further purpose of this Section 15.09 to:

4. Establish regulations and standards for earth materials extraction and processing, ready-mix plants, concrete recycling plants and concrete building materials production plants; the storage and stockpiling of associated raw and recyclable materials; and the trucking and other related operations pertaining to these activities; and

5. Provide for the conservation and reclamation of lands affected by earth materials extraction, processing and related operations in order to restore them to optimum future productive use consistent with the protection of public health and the environment.

Therefore, earth materials extraction and processing, and the operation of ready-mix plants, concrete recycling plants, and concrete building materials production plants shall only be permitted on a special use basis.

C. Applicable Zoning Districts and Operations: In M Manufacturing Districts only, an operator desiring to extract and/or process earth materials shall apply for a special use permit jointly with the owner or any person who is entitled to legal possession of the property to be af-

fected and shall comply with the operation and reclamation regulations in this Section 15.09.

D. Compliance with State and Federal Regulations: It shall be unlawful for any owner/operator to engage in surface mining in an area where the overburden shall exceed 10 feet in depth or where the operation will affect more than 10 acres during the permit year without first obtaining from the Illinois Department of Mines and Minerals a permit to do so, pursuant to the Surface-Mined Land Conservation and Reclamation Act, 225 ILCS 715/1 *et seq.*, as amended.

All owner/operators shall comply with the regulations of the United States Environmental Protection Agency, the United States Army Corps of Engineers, the Illinois Environmental Protection Agency, and any other applicable state or federal laws or regulations, including, but not limited to, occupational health and safety. Any necessary permits shall be obtained prior to issuance of the special use permit. Before the onset of any operations, the City Administrator must be provided with copies of all necessary permits. Such permits must be kept valid and in force for the special use permit to be valid and in force.

E. Application for special use permit: All owner/operators shall apply for a special use permit. In addition to the other requirements of this Section 16, the owner/operator shall present the statements, maps and plans required in Sections 15.09-F and 15.09-G herein. Review and approval of the special use permit and any terms and conditions imposed upon and included with said special use permit shall take into account the materials provided in Sections 15.09-F and 15.09-G herein.

F. Statements: The following statements shall accompany an application for a special use permit:

1. Ownership of land.

2. Minerals to be mined.

3. Character and composition of vegetation and wildlife on land to be affected.

4. The nature, depth and proposed disposition of the overburden.

5. The estimated depth to which the mineral deposit will be mined.

6. Estimated type and volume of excavation.

7. The techniques and equipment proposed to be used, as applicable, for:

   a. earth materials extraction;

   b. earth materials processing;

c. ready-mix plant;

d. concrete recycling plant; and

e. concrete building materials production plant.

8. Practices and methods proposed to be used to minimize noise, dust, air contaminants and vibration and to prevent pollution of surface or underground water.

9. The method of recycling water used for washing and grading.

10. The proposed usage or drainage of excess water.

11. Location of existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting surface mining.

12. Location and names of all streams, creeks and bodies of water within lands to be affected.

13. Drainage on and away from the lands to be affected, including directional flow of water, natural and artificial drainways and waterways, and streams or tributaries receiving the discharge.

14. Proposed days and hours of operation of all excavation, processing and operations on the property.

15. Projected dates of commencement and completion of all excavation, processing and operations on the property.

G. Maps and Plans: The following maps and plans, which shall constitute the Operations Plan, shall accompany an application for a special use permit:

1. A map or maps (scale of 1" = 100') showing the following:

a. Existing topography at 2' contour intervals.

b. Location of existing water courses or drainage systems.

c. Location and extent of flood hazard areas.

d. Boundaries of the area to be excavated and of each phase if excavation is to proceed or be contemplated to proceed in phases.

e. Locations of proposed and existing structures, equipment and material storage areas and processing areas.

f. Existing or proposed locations of equipment used for grading, crushing, sorting and other related purposes.

g. Location, orientation and dimensions of all proposed landscaping, berming, screening, fencing and gates.

h. Location, dimensions and surface treatment of proposed entrance and exit drive(s), on-site haul roads and parking areas.

i. Access routes between the property and nearest arterial street designated on the City's comprehensive plan.

j. Location, width and grade of all right-of-ways or easements on or abutting the property.

k. Cross-sections showing extent of overburden, extent of deposits to be extracted and water table.

l. North arrow, scale, date of preparation, name of registered civil engineer, landscape architect or surveyor that prepared the map.

m. Existing or proposed location of ground water monitoring well(s).

2. A Reclamation Plan meeting the following requirements:

a. Map (scale of 1" = 100') showing the final condition of the site after extraction and processing activities have been completed.

b. Locations of proposed water courses, water features and drainage systems.

c. Future structures, land uses, roadways and open spaces.

d. Staged schedule of reclamation actions by area detailing dates of completion and reclamation methods.

e. Future landscaping and ground cover.

f. Final grading.

3. All approvals of special use permits for earth materials extraction and processing shall expire 10 years from the date they are approved by the City Council, unless a

longer time is approved by the City Council. The maximum allowable time limit will be 20 years. The City Administrator or his designee will be responsible for monitoring the operation throughout the life of the operation and special use.

H. Renewal of a Special Use Permit: A renewal of a special use under this Section 15.09 shall be for a period of time not more than 10 years.

1. A request to renew a special use permit that involves acreage or equipment in addition to that allowed in the original special use permit, shall be treated in the same manner as the initial application.

2. A request to renew a special use permit when no additional acreage or equipment will be brought into use shall be handled in the following manner:

   If an owner/operator is unable to finish mining the acreage described in the original special use permit in the time specified, he shall apply to the Zoning Council of Appeals for renewal of the special use permit. A public hearing will be held. The maps required by this Section 15.09 for the initial hearing shall be revised, updated and resubmitted, along with a statement of the current status of the mining reclamation.

   Any application for a renewal of a special use under this Section 15.09 shall be filed with the Commission not less than 120 days before the expiration date of the original special use permit or any renewal thereof. A failure to file a request for renewal within the required time designated in this Section 15.09 shall result in a required cessation of mining and sale of product upon the expiration of the special use permit.

I. Surety: All owner/operators shall be required to obtain the proper permits and submit an acceptable irrevocable letter of credit to ensure the completion of the reclamation of the site. If any form of surety is required by the state, the owner/operator shall only be required to provide the City Administrator with a photocopy. A letter of credit will be required by the City of not less than $3,500.00 for each acre to be affected. The actual dollar amount will be established by the City Administrator based upon 150 percent of the City Engineer's estimate of the cost of reclamation per acre average at the time mining is to be performed. This estimate shall take into consideration inflation of costs in future years. The actual operation shall be monitored by the City Administrator, or his designee, and he/she shall prepare a written report for review by the City Council on the progress before partial or full release or reduction of the letter of credit.

The surety shall be held by the City. Such surety shall remain in effect until the affected lands have been reclaimed in accordance with the Reclamation Plan, and the work is approved by the City Administrator at the annual review of the operation (see Section 15.09-N herein). Land shall not be mined unless a surety for that land has been filed with the City. The surety shall be approved by the City Attorney. The surety shall be for assurance of completion of reclamation, and the initial surety amount shall be set on an anticipated three years

working basis with reasonable allowance for inflation of costs. Before the end of each one-year period, the City Administrator's evaluation and the approval of the past year's work shall be required for release of or reduction of the letter of credit amount, and at that time, the surety level shall be established for the next one-year period or fraction thereof. Decisions of the City Administrator relative to any aspect of this Section 15.09-I are appealable to the City Council, whose decision is final.

J. Reclamation Regulations: The Reclamation Plan map and statement of sequential operation and reclamation shall be followed to produce a finished condition that complies with the Reclamation Plan map and the provisions of this Section 15.09 so as to provide for the return to a useful purpose of the affected land.

K. Changing the Reclamation Plan: In the event a change in the Reclamation Plan is necessary due to the unanticipated characteristics of the area concerned, the City Administrator, after being provided with appropriate documentation, shall study the proposed change, and give a report to the City Council for its review. Changes may be made in the Reclamation Plan upon the mutual consent of the owner/operator and the City Administrator and approval by the City Council. The change shall preserve as substantially as possible the original Reclamation Plan, but shall also provide for the previously unknown variables.

L. Finished Conditions: The finished conditions of all land affected by surface mining shall:

1. Be back-filled with earth or other suitable fill material approved by the City and graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having no more than 15 percent grade. In the case of those lands to be reclaimed in accordance with the filed plan for forest plantations, recreation or wildlife, the final cut spoil, the outside slope of the box cut spoil, the outside slopes of all overburden deposition area, and the side slopes of haulage road inclines shall not exceed 30 percent grade; but such slopes need not be reduced to less than the original grade of the overburden of the area prior to mining;

2. Be designed to control conditions that could cause erosion on the site or on surrounding streets or properties;

3. Be designed to eliminate large undrained depressions other than artificial lakes, or depositions designed specifically for erosion control;

4. Be designed so that any surface drainage from the property shall leave the property at the original natural drainage points. If this is not possible, the drainage plans must be reviewed by the City Engineer as part of the overall submission. Drainage volume shall not be increased over what it would have been if the site was left in its former use and water conservation practices were applied. The finished condition must meet the City standards for storm water retention-detention contained within the Municipal Code;

5. Be covered with arable topsoil (except for areas under water) to a minimum depth of six inches, and shall have a minimum of 10 percent organic material, except that no greater depth of topsoil or percentage of organic material shall be required than that originally existed on the property prior to commencement of operations;

6. Be successfully planted (after replacement of the topsoil) with trees, shrubs, legumes, grasses or other vegetative ground cover in accordance with the Reclamation Plan in order to avoid erosion; and

7. Whenever production and/or processing on any property shall have been completed, then all processing plants, buildings (other than those shown on the Reclamation Plan), structures (except fences), and equipment, shall be entirely removed from the property within one year after completion, including, but not limited to, such items as stumps, boulders and other debris resulting from excavation and related activities.

M. Operations and Reclamation Requirements and Performance Standards: The operation and reclamation of the property shall be in accordance with the following conditions:

1. Existing trees, shrubs and other types of woody vegetation along road frontages shall be protected and maintained. Weeds and other unsightly noxious vegetation shall be cut or trimmed as may be necessary to present a reasonably neat appearance, to prevent grass fires or the hazard of grass fires.

2. The following apply to protection of ground water levels and quality:

   a. No extraction operations shall be conducted in such a manner that the ground water table of surrounding properties is harmfully lowered or impacted. The maximum excavation depth shall not go below existing ground water, except where the approved Reclamation Plan provides for a water feature or for refilling of such excavation. Any such refilling shall be in compliance with applicable state and federal laws and regulations governing ground water pollution.

   b. Water pumped from the site for the purpose of washing shall be retained in a pond until the silt and clay settles and then the water shall be recycled in the area affected.

   c. The owner/operator shall install a ground water monitoring well or wells, the location, type and number of which shall be shown on the Operations Plan. Such wells and related gauges shall be located and constructed to provide measuring data relative to the movement of ground water and changes in the levels thereof and water quality testing. The City shall have the authority to establish and periodically update ground water parameters consistent with

standards in the field of earth materials extraction monitoring typical in the State of Illinois. As of the date of the adoption of this Section 15.09-M2, which is August 26, 2002, the following parameters shall apply:

I. The owner/operator shall provide ground water level reports quarterly using the data from the monitoring well or wells and related gauges, at times and upon forms provided by the City Administrator.

II. The owner/operator shall provide annual ground water quality reports at times and on forms provided by the City Administrator using samples from the monitoring well or wells. If the operations involve the removal of materials from below the elevation of the ground water, or if the standing water exists within the area of active operation or disturbed area, then the owner/operator shall provide ground water quality data to the City Administrator quarterly with the ground water level reports.

3. If the subject areas shall front on a township road which is used for access to the site, the owner/operator shall, coincidental with commencement of operations, bring that township road up to the paving standards defined for industrial roads in the *Schedule of Minimum Design Requirements for Subdivision Roads in McHenry County*, from the entrance to the subject area to the nearest federal, state or county road used by the operator. The owner/operator shall repair any section of road damaged as a result of gravel hauling operations, but shall not be responsible for the normal wear and tear of the road. This provision shall not be construed to require the operator to purchase additional right-of-ways.

4. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking or collapse of supporting soil adjacent to an excavation.

5. The following apply to surface mining conditions only, not to reclamation conditions:

a. Surface mining operations that remove and do not replace the lateral support shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to 100 feet unless a lesser distance is mutually agreed to by the operator and adjacent property owner and submitted in writing for review and approval by the City.

b. The bottom of the slope of the mined face of the excavation shall not be closer to the point determined per Section 15.09-M5a herein, than a distance equal to 1½ times the depth of the excavation.

c. If consolidated materials occur in the mined face, the slope of the face may be steeper than 1½ to 1 slope per Section 15.09-M5b herein for the depth(s) of those materials; however, all other mined slopes of unconsolidated materials shall be no steeper than those per Section 15.09-M5b herein.

d. Overburden shall not be removed from more land than is to be mined within one year. No overburden shall be removed from additional land until vegetative ground cover in conformance with the Reclamation Plan is installed on all land where excavation is complete and the land is not being used for earth material storage.

6. Notwithstanding any other provisions of this Section 15.09 or of other ordinances and codes relating to screening, all active operations shall be screened and buffered by an earthen berm of not less than six feet in height and/or a farm fence of not less than 54 inches in height, of such a design so as to allow the free flow of wild animals, but to discourage trespass by humans and farm animals. Berms that will remain in place for one year or longer shall be planted with grass or suitable vegetative ground cover, shrubs and trees and maintained as a visual and acoustical screen. They shall be designed so they do not erode into the road or highway right-of-way or onto the adjoining property. Such berms shall be installed prior to the commencement of any operations adjacent to said activity. The berm design and the landscaping plan, including the type, quantity and species of plants, shrubs and trees, shall be subject to review and approval of the City. Trees and shrubbery shall be planted on the berm. Trees planted shall be approximately 10 feet or more in height and shall be planted in two rows approximately 16 feet apart, and shall be centered approximately 20 feet apart in each row, with the back row staggered. Random shrubbery shall also be planted. The trees shall be as specially developed and recommended for rapid growth and appearance by the United States Forestry Service, and shall be in accordance with the standards adopted by the Illinois Department of Mines and Minerals pursuant to the Illinois Surface-Mined Land Conservation and Reclamation Act. Until such growth is established, the owner or operator shall be responsible for weed control and may be required to do re-seeding or re-planting for areas where the vegetation dies or does not take. A gate shall be placed at all entrances that will be kept locked whenever the owner, operator or their agent is not on site.

7. The processing and stockpiling of earth materials and recyclable materials shall not be conducted within 300 feet of the property lines of any adjoining residentially zoned property. There shall be no importation onto the site of materials that do not relate to the approved uses, including, but not limited to, mixed construction debris and asphalt. The maximum height of stock piles of any materials shall not exceed the height of the earthen berm on the perimeter of the property.

8. Other than maintenance functions, no earth extraction and processing operations, ready-mix or concrete production, or recycling of concrete, shall take place at any

time on Sundays, or holidays recognized by both state and federal governments, or on Saturday prior to 6:00 a.m. and after 4:00 p.m. or between 6:01 p.m. and 5:59 a.m. on all other days.

9. Operations shall be conducted so that noise levels and air and water standards comply with federal and state standards.

10. To minimize airborne dust and the deposit of dirt and gravel on public streets, all access ways and on-site roads shall be maintained in a dust-free condition either by paving or spraying with calcium chloride or other products of like effect.

11. The premises shall be neat and orderly, free from junk, trash, abandoned equipment, or unnecessary debris. Debris, including, but not limited to rebar from concrete recycling, shall be regularly removed from the site. The site shall not be used as storage for debris not related to the special use permit. Buildings and structures shall be maintained in a sound condition, in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged. Berms and fences shall be kept in good repair.

12. Enough topsoil must be stockpiled to meet the finished conditions of Section 15.09-M5 herein.

13. Trucks hauling excavated materials shall be loaded so as to prevent spillage onto public streets. All trucks shall be covered. Any spillage on streets must be removed by the owner or operator within 24 hours of a spill. The entrances into the site shall be swept on a regular basis, with no less a frequency than weekly during peak season (April 1 to November 30). The owner or operator shall attempt to minimize the migration of loose gravel onto public streets by requiring that spread pans, side rails, suspension systems and the like be kept free of sand and gravel to an extent as is reasonably possible.

14. All equipment, machinery and vehicles operating on the site shall be operated and maintained so as to minimize the possibility of oil or fuel leaks. Should a leak or similar accident occur, the owner or operator shall have a written emergency plan and the proper equipment and materials necessary to contain and clean up any such leak. If a leak occurs such that the plan is put into effect, the City shall receive a report of the incident. The plan shall be updated as technology evolves.

15. Only those vehicles and items of equipment which relate to the approved activities on the site may be parked or stored on the site.

16. In case of conflict between any Operations Plan or Reclamation Plan or map and the provisions of this Section 15.09-M, the greatest restriction or highest standard shall govern, unless an exception is specifically provided for in a special use permit.

N. Enforcement: The City Administrator, or his designee, in conjunction with the City Engineer, shall annually review each special use granted under this Section 15.09 Such inspections shall include all activities permitted on the property.

In addition to the Reclamation Plan/map, the owner/operator shall provide the City Administrator with an annual aerial photo of his total operation, enlarged to a scale of one inch equal 100 feet or other scale that would adequately display the property affected on a 30-inch square format. The first photo shall be taken during the first year in operation and subsequent photos shall be taken in the same month of the following years. Each year's photo shall be presented at the same scale for the purpose of comparison. The photo shall be taken in clear daylight when the area is without foliage or snow. Every three years, the City shall be provided with a new topographical map of the site drawn at two-foot contour intervals.

The City Administrator, in conjunction with the City Engineer, shall prepare a report and submit it to the City Council for its review and approval. If it is determined that the operator is not in compliance with this Section 15.09-N, the surety requirement, the operations and reclamation statements, plans or maps, or any other aspect of the approved special use permit, the City Administrator shall issue a stop-work order on all operations other than reclamation work needed to bring the operation into compliance.

Before release or reduction of a surety, an on-site inspection of the acreage reclaimed shall be made by the City Administrator and the City Engineer to check for compliance with the Reclamation Plan and any additional conditions of the special use permit. A random count procedure shall be used to check seeding, plantings and depth of topsoil.

The full costs of all inspections shall be borne by the owner/operator. Failure to pay invoices for such costs after the expiration of 30 days after the date the invoices are mailed or delivered to the owner/operator, shall result in a stop-work order being issued by the City.

15.10 ADULT BUSINESSES

A. Purpose and Intent: It is the intent of this Section 15.10 to protect and preserve the health, safety, welfare and morals of the citizens of the City by regulating adult business within the City.

B. General Standards:

1. A special use permit must be issued for each adult business pursuant to this Section 15.

2. Location Restrictions: No adult business shall be operated within 1,000 feet of a residential zoning district or within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, public housing, nursing home, rest home,

sheltered care facility and place of religious worship. The distance limitation shall be measured in a straight line from the lot lines of said adult business and applicable residential zoning district, school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship.

3. Only one adult business shall be permitted per block face.

4. Sign Requirements: The following sign requirements shall apply to any adult business:

   a. All signs shall be flat wall signs.

   b. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, or as permitted by the ordinances of the City, whichever is more restrictive.

   c. Window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. One 1 square foot sign may be placed on the door to state hours of operation and admittance to adults only.

5. Advertising: No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.

6. Alcoholic Liquor Prohibited: It shall be unlawful for any adult business to sell, distribute or permit beer or alcoholic beverages on the premises.

15.11 BED AND BREAKFAST ESTABLISHMENTS

Bed and breakfast establishments, as defined and regulated by 50 ILCS 820/1 *et seq.* and licensed by Section 31.03 of the Marengo Municipal Code, shall be a special use in any residential zoning district. When a bed and breakfast establishment is within a single family detached dwelling, the City, as part of the special use approval process, may consider the use of accessory structures for guest room accommodations.

15.12 CONDITIONS OF APPROVAL

A. Development of Conditions: The Planning and Zoning Commission may recommend, and the City Council may impose, such conditions of approval upon a special use permit as to the establishment, location, construction, maintenance and operation of a special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements of Section 15.03 herein.

B. Landscape Plan: A Landscape Plan shall be required for all applications for a special use permit. The Landscape Plan shall be prepared in accordance with Chapter 21, Landscaping Code, of the Marengo Municipal Code. The Commission or the City Council may request or require the review of all landscape plans as part of the consideration of a petition for a special use permit.

pjh:Marengo.Zone\Section15.SpecialUse.Sept09

Section 16

PLANNED DEVELOPMENT

16.01 Purpose
16.02 Where Permitted
16.03 Minimum Area
16.04 Required Sewer and Water
16.05 Procedure, Application and Referral
16.06 Preliminary Application for Development Plan
16.07 Planned Development Final Approval
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16.10 Approval
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16.12 Minor Modification of Plans
16.13 Performance

16.01 PURPOSE

The development and execution of a zoning ordinance is based upon the division of the City into districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are special uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. It is also recognized that new types and procedures in land development or redevelopment are emerging and that the mixing of uses and variations in heights and yards can produce very satisfactory and lasting results, if properly designed and planned, without adverse influence upon surrounding property.

16.02 WHERE PERMITTED

A planned development may be located in any zoning district, subject to the procedures and standards set forth below and subsequent to the issuing of a special use permit.

16.03 MINIMUM AREA

No minimum lot area or acreage is required to be eligible for consideration as a Planned Development Area. The major requirement is that the tract be both self contained and homogeneous, as well as being improved so as to benefit the entire City with no adverse effect upon the surrounding property.

16.04 REQUIRED SEWER AND WATER

A planned development shall be served by a sanitary sewerage system and a public water supply system.

16.05 PROCEDURE, APPLICATION AND REFERRAL

The applicant shall submit a concept plan to the City Council for information purposes and for referral to staff and the Planning and Zoning Commission. Following staff review and comments, and the review by the Planning and Zoning Commission the applicant may begin the preliminary plan procedures.

16.06 PRELIMINARY APPLICATION FOR DEVELOPMENT PLAN

Any person or persons owning lots or land within the City may apply to the Commission for consideration of a planned development. The Commission may approve or disapprove the application or may make recommendations regarding changes or revisions that it deems desirable. Said recommendation shall be forwarded to the City Council. If the preliminary plan is approved by the City Council the petitioner may proceed with final plan. The preliminary application shall be accompanied by the following.

1. A reproducible map with 15 prints of a survey of the property showing existing features of the property, including specimen trees, structures, streets, easements, utility lines and existing land use.

2. A reproducible map with 15 prints of a preliminary development plan which shall be in conformance with the approved tentative plan, showing, as appropriate, all the information required on the tentative development plan; the approximate location and proposed density of dwelling units; non-residential building intensity; and land uses considered suitable for adjacent properties.

    a. Proposed land uses, population densities and building intensities.

    b. Proposed circulation pattern, indicating both public and private streets and off-street parking ratio.

    c. Proposed parks, playgrounds, school sites and other open spaces.

    d. A market analysis of proposed commercial use, if the property is not zoned for commercial purposes at the time of submittal of the preliminary development plan.

    e. Delineation of the units to be constructed in progression, if any.

    f. Relation to future land use in surrounding area and Marengo Comprehensive Plan.

3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of total number of acres in the project and the percent thereof designated for various uses; the number of dwelling units proposed by type of dwelling for each unit of the development; estimated residential population by type of dwelling for each unit of the development; estimated non-residential population; proposed retail sales by unit and economic justification; anticipated timing for each unit and standards for height; open space, parking area and parking spaces, lot coverage, land in streets, floor area ratio, population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from the standard zoning district or other ordinance regulations governing development. The applicant shall provide an itemized list of exceptions by unit and by zoning district, when exceptions are requested by the applicant from the standard zoning district.

4. The written approval of every property owner within the development to be bound by the proposed agreements and conditions, and to agree to file the written agreement with the Recorder of Deeds of McHenry County before the final plan is approved by the City Council.

5. Engineering feasibility studies, as necessary.

16.07 PLANNED DEVELOPMENT FINAL APPROVAL

Planned development approval, valid for one year, shall be secured for each unit of the development

as delineated on the preliminary development plan and approved by the Commission and the City Council. Planned development plans shall be prepared by a qualified professional team and be concerned with but not necessarily limited to the following:

1. A reproducible map with ten prints of the site plan showing buildings, various functional use areas, circulation and their relationships.

2. Preliminary building plans, including floor plans, exterior elevators and outline specifications of type of building materials, type of wall and roof construction, type of pavement and surfacing materials.

3. Landscaping plans including type of plant materials and their arrangement.

4. Engineering plans, including site grading, street improvements, drainage and public water, sanitary sewer and storm sewer extensions, as necessary.

5. Information necessary for evaluation and assignment of fire zone designations, including proposed use and occupancy, and building heights and area of each building or structure and proposed distances between buildings and structures and distances to property lines.

6. There shall also be submitted with the final plan, a written agreement of restrictions assuring the City that the development will be carried out in full compliance with the final plan and within the time schedule of construction submitted with the final plan.

7. All required materials such as maps and proposals, exhibits, etc., along with the proper fees, shall be presented to the City Clerk prior to notice of publication for a Commission meeting or a zoning hearing.

8. Final development plans must be submitted to the Commission after approval of the preliminary development plan.

16.08 GENERAL STANDARDS

A planned development shall conform to the following requirements:

1. The number of dwelling units erected shall not exceed the number permitted by the regulations of the district in which it is located.

2. The yards and open spaces adjoining the boundaries of the project shall not be less than the yard requirements of the district in which it is located.

3. If a building is permitted to exceed the height limit of the district in which it is located, the yards and open spaces around such building shall be increased by an amount equal to the height that the building exceeds the height limit of the district measured in feet.

4. If more intensive uses are permitted than are required by the district regulations, there must be clear evidence that such uses are needed to service the project provided the Commission shall find:

    a. That the use permitted by such exceptions are necessary or desirable and are appropriate with respect to the primary purpose of the development;

    b. That the uses permitted by such exception are not of such a nature or so located as to

exercise a detrimental influence on the development nor on the surrounding neighborhood;

c. That not more than 15 percent of the ground area or of the gross floor area of such development shall be devoted to the uses permitted by said exceptions;

d. That in a planned manufacturing development such additional uses allowed by exception shall conform with the performance standards of the district in which the development is located as set forth in Section 13 of this Zoning Code;

e. That the use exceptions so allowed are recorded on the zoning district maps by appropriate symbols or by reference to documents on file with the Zoning Administrator;

f. Where the planned development is to be located in a residential district, no use exceptions shall be allowed unless the size of the planned development exceeds 20 acres.

5. The amount of off-street parking must be adequate to serve the needs of the projects and the Commission and City Council may require more off-street parking than is otherwise required by this Zoning Code.

6. If any open space or recreational facility is to be used solely by the residents of the project, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly improved, maintained and operated.

7. Underground Utilities. Underground utilities including telephone and electric systems are required within the limits of the planned development. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Commission finds that such exemption will not violate the intent or character of the development.

16.09 BULK REGULATIONS

In the case of any planned development, the Commission may recommend, and the City Council may authorize, exceptions to the applicable bulk regulations of this Section 16.09 within the boundaries of such development, provided that the Commission shall find:

1. That such exception shall be solely for the purpose of encouraging a desirable living environment no less beneficial to the residents or occupants of such development, as well as of neighboring properties, than would be obtained under the bulk regulations of this Zoning Code for buildings developed on separate zoning lots.

2. That the gross population density shall not be increased above the number which would be permitted under the otherwise applicable district regulations.

3. That along the periphery of planned developments, yards shall be provided as required by the regulations of the district in which said development is located.

4. That not less than 50 percent of the lot coverage in a residential planned development in the residential zoning districts shall be used for green space and recreational facilities.

5. Other standards for height, density, yard regulations, parking, loading and screening for a planned development shall be governed by the standards of the residential, commercial or

industrial zoning district(s) most similar in nature and function to the proposed planned development as determined by the Commission. Standards for public improvements shall be governed by the applicable ordinances and laws of the City. Exceptions to these standards by the Commission and the City Council are possible when these bodies find that such exceptions are warranted in terms of the total proposed development.

16.10 APPROVAL OF THE DEVELOPMENT PLAN

Whenever the Commission and the City Council approve the final plan and accompanying agreements, the Zoning Administrator shall issue the necessary permits for all of the project or for such phases thereof that are to be first constructed provided fees are paid and building codes are met. The City Administrator may, from time to time, approve minor changes within the project, but such changes shall not be of a nature that would affect the character and standard of the Planned Development.

16.11 TIME LIMIT

If no construction has been started within two years from the date of approval of the final plan, the permits shall be declared null and void and the project shall not be initiated unless it is resubmitted and reapproved in the same manner that it was approved in the first instance. The City Council may, however, extend the period for initiating construction upon a showing of good and sufficient cause.

16.12 MINOR MODIFICATIONS TO PLAN

The Zoning Administrator may, from time to time, approve minor changes within the project, but such changes shall not be of a nature that would affect the character and standard of the planned development.

16.13 PERFORMANCE

At the time of the granting of the permit, the City Council shall make appropriate arrangements with the applicant which will insure the accomplishment at the scheduled times, of the public improvements and grants of easement shown on the approved final plan.

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Section 17
ADMINISTRATION

17.01 Zoning Administrator
17.02 Certificate of Zoning Compliance
17.03 Certificate of Appropriateness
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17.01 ZONING ADMINISTRATOR

The Administrator, or his or her designee, is the Zoning Administrator (also called the Zoning Enforcement Officer) and shall have the following powers and duties:

1. Receive and process all applications and petitions for zoning matters pursuant to this Zoning Code.

2. Be responsible for the interpretation of the provisions and regulations of this Zoning Code.

3. Be responsible for administering and enforcing this Zoning Code, including conducting of inspections required by this Zoning Code or as are necessary to ensure compliance with the provisions of this Zoning Code.

4. Serve as a staff liaison to the Commission.

5. Publish annually an up-to-date copy of the Zoning Map as provided by Illinois Compiled Statutes.

6. Maintain for public inspection, during regular business hours, a copy of this Zoning Code together with the Zoning Map, along with all amendments thereto.

7. Maintain all minutes and records of the Commission, and documents, including but not limited to ordinances and permits, that memorialize or authorize zoning actions taken by the City Council.

8. Perform such other duties as are delegated to him or are provided for generally in this Zoning Code.

9. To review and refer requests for variances, special uses permits and zoning amendments affecting designated landmarks or property within a designated historic district to the Historic

Preservation Commission after review and approval by the Commission.

10. To refer applications for construction, alteration, removal or demolition affecting proposed or designated landmarks or structures within designated historic preservation districts.

17.02 CERTIFICATE OF ZONING COMPLIANCE

Upon the adoption of this Zoning Code no land shall be developed, no new use or structure shall be established or erected and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until a Certificate of Zoning Compliance has been issued. The Zoning Administrator shall not issue a Certificate of Zoning Compliance unless it has been determined that the proposed work conforms to the applicable provisions of this Zoning Code.

1. Application: An application for a Certificate of Zoning Compliance shall be submitted to the Zoning Administrator in graphic and/or in narrative form containing the following:

    a. Name, address and phone number of the applicant(s).

    b. Name, address and phone number of the owner(s) or operator(s) of the proposed structure or use, if different.

    c. Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees and other related information.

    d. Location of the proposed use or structure and its relationship to existing adjacent uses or structures.

    e. Area and dimensions of the site for the proposed structure or use.

    f. Number and size of proposed dwelling units, if any.

    g. Location and number of proposed parking/loading spaces and access ways.

    h. Any other information that the Zoning Administrator may require.

2. Relationship to Building Permits: Upon the effective date of this Zoning Code, the Building Commissioner shall not issue any building permit for the erection, enlargement, extension, alteration or reconstruction of any structure unless the applicant for such permit presents to the Building Commissioner a copy of the Certificate of Zoning Compliance pertaining to such work.

3. Corrective Action Orders: Whenever the Zoning Administrator finds by inspection or otherwise, that any lot, structure or use or work thereon is in violation of this Zoning Code, he/she shall so notify the responsible party and shall order corrective action.

4. Contents of Order: The order to take corrective action shall be in writing and shall include:

    a. A description of the premises sufficient for identification.

    b. A statement indicating the nature of the violation.

    c. A statement of the remedial action necessary to effect compliance.

    d. The date by which the violation must be corrected.

e. A statement that the alleged violator is entitled to a conference with the Zoning Administrator if he/she so desires.

f. The date by which an appeal of the corrective action order must be filed and a statement of the procedure for so filing.

g. A statement that failure to obey a corrective action order shall result in revocation of the Certificate of Zoning Compliance and may result in the imposition of fines.

5. Service of Order: A corrective action order shall be deemed properly served upon the owner, occupant or operator of the offending lot, structure or use if it is: served personally; sent by certified or registered mail to his/her last known address; or posted in a conspicuous place on or about the affected premises.

6. Stop Orders: Whenever any work is being done in violation of a Certificate of Zoning Compliance or this Zoning Code, the Zoning Administrator's corrective action order may state that the violation must cease immediately. In such cases, the corrective action order is equivalent to a stop order.

7. Emergency Measures: Notwithstanding any other provisions of this Zoning Code, whenever the Zoning Administrator determines that any violation of this Zoning Code poses an imminent peril to life or property, he may institute without notice or hearing any necessary proceedings to alleviate the perilous condition. At the earliest possible time notice shall be served. Costs including attorney fees incurred by the City shall be paid by violator.

8. Complaints: Whenever any violation of this Zoning Code occurs or is alleged to have occurred, any person may file a complaint to the Zoning Administrator. The Zoning Administrator shall record such complaints, immediately investigate and if necessary, institute appropriate corrective action.

17.03 CERTIFICATE OF APPROPRIATENESS

Upon adoption of this Zoning Code no structure or property designated as a landmark or for which designation as a landmark has been applied or which is included within the boundaries of a designated historic preservation district shall be developed, constructed, altered, removed, or demolished without first obtaining a certificate of appropriateness for such actions. Additional information is available in the City's Historic Preservation Ordinance.

17.04 CONTINUANCE OF EXISTING USES

Nothing in Sections 17.02 or 17.03 herein shall prevent the continuance of the present occupancy or lawful use of any existing building or zoning lot, except as provided in Section 6 of this Zoning Code, and except as may be necessary for the safety of life and property. Certificates for the continued occupancy of legal non-conforming uses existing at the time this Zoning Code and subsequent amendments become effective shall be issued by the Building Commissioner upon request, and the certificate shall state the use is non-conforming and does not conform with the provisions of this Zoning Code.

17.05 PLANNING AND ZONING COMMISSION

The Commission, in addition to its powers and duties as prescribed in Section 3.06 of the Marengo Municipal Code and State Statutes, shall have the powers and duties prescribed by this Chapter 22, Zoning Code, of the Municipal Code.

1. Commission Jurisdiction: The Commission is hereby vested with the following powers and duties:

   a. To hear and decide appeals alleging error in any order, requirement, decision or determination of the Zoning Administrator or Building Commissioner relating to zoning matters set forth in this Zoning Code. After holding a public hearing, the Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Zoning Administrator or Building Commissioner.

   b. To recommend to the City Council, after holding a public hearing, on applications or petitions for variations from the strict enforcement of any provisions of this Zoning Code, in accordance with the rules and standards hereinafter set forth.

   c. To recommend to the City Council, after holding a public hearing, on applications and petitions for special uses listed in each of the several zoning districts.

   d. To recommend to the City Council, after holding a public hearing, on applications and petitions for Planned Developments referred to it by the City Council and to hear and decide other matters referred to it or upon which it is required to pass under the provisions of this Zoning Code.

   e. To sit as a special zoning commission for considering text amendments to this Zoning Code. After holding a public hearing on any proposed text amendments the Commission shall recommend to the City Council whether or not such text amendments should be passed. The Commission may also make recommendations for text amendments, after public hearing, on its own petition.

   f. To recommend to the City Council, after holding a public hearing, on petitions for amendment of the provisions of this Zoning Code (a.k.a. text amendments) and the boundary lines of zoning districts herein established (a.k.a. re-zonings or map amendments). Nothing herein contained shall be construed to authorize the Commission to change any of the provisions of this Zoning Code or district boundary lines established hereby.

   g. The concurring vote of four members shall be necessary to reverse any order, requirement, decision, or determination of the Building Commissioner or Zoning Administrator or to decide in favor of the petitioner or applicant in considering any matter upon which the Commission is authorized to act.

   h. To transmit to the City Council, with every recommendation, a written finding of fact and to refer to any documents and exhibits containing plans and specifications relating to its recommendation, which documents, plans and specifications shall remain a part of the permanent records of the Commission. The finding of fact shall specify the reason or reasons for its recommendation. The recommendation, or the terms of any relief recommended, shall be incorporated into the finding of fact, and shall be specifically set forth in a conclusion of the finding.

2. Commission Meetings and Hearings: All meetings and hearings of the Commission shall be held at such times as the Commission and/or the Corporate Authorities may determine, and the schedule of such meetings and hearings shall be posted at City Hall. The presence of four Commissioners shall be necessary for a quorum. The Chairman, or Acting Chairman, may administer oaths and compel the attendance of witnesses. The Commission shall have the authority to adopt procedural rules for the conduct of its meetings and hearings consistent with

the provisions of this Chapter 17 and other codes and ordinances of the City. The Commission shall keep minutes of its proceedings, keep record of its examinations and other official actions, prepare findings of fact, and record the individual votes upon every question. Such minutes shall be filed with the City after each meeting or hearing, which shall be a public record.

3. Appeals and Stay of Proceedings: An appeal may be taken from any order, requirement, decision or determination of the Building Commissioner relating to zoning matters set forth in this Zoning Code by any person, firm or corporation aggrieved thereby, or by any officer, department, board or commission of the City. The appeal shall be taken within 45 days of the action complained of by filing a notice of appeal in duplicate, specifying the grounds thereof, in the office of the City Clerk who shall transmit forthwith one copy to the Building Commissioner and one copy to the Chairman of the Commission. The Building Commissioner shall forthwith transmit to the Chairman of the Commission all papers constituting the record upon which the action appealed from was taken.

   An appeal stays all proceedings in furtherance of the action appealed from unless the Building Commissioner certifies to the Commission that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order issued by the Commission or a court of record after notice to the Building Commissioner and on due cause shown.

   The Commission shall select a reasonable time and place for the hearing of the appeal, give due notice thereof to all interested parties and shall render a written decision on the appeal without unreasonable delay. Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney.

17.06 VARIATIONS AND STANDARDS FOR VARIATIONS

A. Variations, Purpose and Intent: In order to accomplish the general purpose of this Zoning Code, consideration may be given to certain practical difficulties or hardships in carrying out the strict letter of regulations of this Zoning Code. The purpose of a variation is to provide relief from difficulties and hardships arising from requirements including, but not limited to, bulk, setback, height, parking and loading, and other regulatory elements of this Zoning Code. The term "variation" as used in this Zoning Code does not include and is not applicable to map amendments (rezonings), text amendments, or special uses. The Commission may recommend to the City Council variations of the regulations of this Zoning Code in harmony with their general purpose and intent only in the specific instances hereinafter set forth and grant by ordinance a variation to permit relief from any provision relating to the use, construction or alteration of buildings or structures or the use of land, where the Commission makes a finding of fact based on the standards hereinafter prescribed, when evidence in a specific case shows conclusively that literal enforcement of any provision of this Zoning Code would result in a practical difficulty or particular hardship because of unusual surroundings or condition of the property involved, or by reason of exceptional narrowness, shallowness or shape of the zoning lot, or because of unique topography, underground conditions or other unusual circumstances.

B. Standards for Variations: Before recommending any variation, the Commission shall first determine based upon the evidence presented to it in each specific case that:

   1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zoning district in which it is located;

   2. The plight of the owner is due to unique circumstances;

3. The variation, if granted, will not alter the essential character of the locality; and

4. The variation, if granted, will be in harmony with the general purpose and intent of this Zoning Code.

For the purpose of implementing the above rules, the Commission shall also, in making its determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts and conclusions favorable to the applicant have been established by the evidence and are justified:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

2. The conditions upon which the petition for a variation is based are unique to the property for which the variation is sought, and would not be applicable, generally, to other property within the same zoning classification;

3. The purpose of the variation is not based exclusively upon a desire to increase the value of the property, the monetary gain to be realized from the property, or to alleviate financial difficulty experienced by the petitioner in the attempt to comply with the provisions of this Zoning Code;

4. The alleged difficulty or hardship is caused by the application of this Zoning Code and has not been created by any person presently having an interest in the property;

5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;

6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fires, or endanger the public safety, or substantially diminish or impair property values in the neighborhood; and

7. The granting of the variation requested will not confer on the applicant any special privilege that is denied by this Zoning Code to other lands, structures, or buildings of the same zoning classification.

C. Administrative Variations: For existing structures that do not comply with the setback requirements for that zoning district, the Zoning Administrator may grant administrative variations of no more that 2.5 percent of the required setback. *Ord. 03-1-8*

17.07 SPECIAL USES AND STANDARDS FOR SPECIAL USES

See Section 15 of this Zoning Code.

17.08 TEXT AMENDMENTS AND STANDARDS FOR TEXT AMENDMENTS

For the purposes of promoting the public health, safety, comfort and general welfare, the City Council may, from time to time, upon recommendation of the Commission in the manner herein set forth, amend the regulations imposed and the zoning districts created by this Zoning Code. Before recommending any text amendment to this Zoning Code, the Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following:

1. That the proposed amendment is beneficial to the orderly development of the City;

2. That the proposed amendment will benefit the public health, safety, comfort and general welfare of the community;

3. That the proposed amendment promotes the public interest and not solely the interest of the petitioner or applicant.

17.09 RE-ZONINGS (MAP AMENDMENTS) AND STANDARDS FOR RE-ZONINGS

For the purposes of promoting the public health, safety, comfort and general welfare, and conserving the values of property throughout the City, the City Council may, from time to time, upon recommendation of the Commission in the manner herein set forth, amend the zoning classification of property (also known as a re-zoning or a map amendment), provided that in all amendatory ordinances adopted under the authority of this Section 17.09, due consideration shall be given to a) existing conditions, b) the conservation of property values, c) the direction of property development and land use that is to the best advantage of the entire City, and d) the uses to which property is devoted at the time of the adoption of any such amendatory ordinance. Before recommending any change in the zoning classification of a particular property, the Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following:

1. That the proposed re-zoning is not detrimental to the orderly development of the City;

2. That the proposed re-zoning will not be detrimental to or endanger the public health, safety, comfort or general welfare of the community;

3. That the request promotes the public interest and not solely the interest of the petitioner or applicant;

4. That the request is consistent with the existing uses of property within the general area of the property in question;

5. That the request is consistent with zoning classifications of property within the general area of the property in question;

6. That the property is not generally suitable for the uses permitted under the existing zoning classification;

7. That the trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the original zoning of the affected property was established supports the request;

8. That, if applicable, the length of time that the property in question has remained undeveloped under its current zoning is considered in the context of land development in the vicinity of the property in question;

9. That property values of the surrounding and adjacent property will not be substantially diminished or impaired; and

10. That the request is in harmony with the objectives of the Comprehensive Plan.

17.10 CONDITIONS

The Commission may recommend, and the City Council in granting any variation or special use may impose such conditions or restrictions as may be necessary to comply with the standards established in this Zoning Code, to reduce or minimize possible detrimental effects of such a variation or special use upon other adjacent properties, and to better carry out the general intent of this Zoning Code.

17.11 CITY COUNCIL ACTION

No action on any specific petition, application or case shall be made by the City Council without a hearing by the Commission as required herein, nor without a report thereof having been made by the Commission to the City Council. Said report shall consist of the hearing minutes and a finding of fact.

Upon the report of the Commission, the City Council, without further public hearing, may adopt, modify or deny any proposed petition or application or may refer the petition or application back to the Commission for further consideration.

In the event the Commission does not recommend that a zoning variation be granted a two-thirds vote of the City Council shall be required to grant the variation.

17.12 CHANGE OF ZONING

Nothing herein contained shall be construed to give or grant to the Commission the power or authority to alter or change the Zoning Code or any use district made a part of the zoning map; such power and authority being reserved to the City Council, and the Commission shall not have any power or authority with respect to any alterations or change of the Zoning Code except to make recommendations to the City Council in such specific cases as may properly come before the Commission.

17.13 IMPLEMENTATION OF VARIATIONS/SPECIAL USES

No order for a variation or special use permitting the erection or alteration of a building shall be valid for a period longer than six months, unless such use is established within such period, provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

17.14 REVOCATION OF VARIATIONS/SPECIAL USES

Whenever any variation or special use granted under the terms of this Zoning Code has been discontinued or abandoned for a period of six consecutive months, or whenever there is evidence of a clear intent on the part of the owner to abandon a variation or special use, such variation or special use, after being discontinued or abandoned, shall be considered void and the owner shall submit a new application or petition pursuant to this Zoning Code.

17.15 PUBLIC HEARING REQUIREMENTS

All hearings before the Commission shall require public notice. The Commission shall cause notice of a petition or application to be given in the following manner:

1. By publishing notice of the time and place of such hearing in a newspaper of general circulation in the City of Marengo, Illinois, at least 15 days prior to the hearing;

2. By causing said notice to contain the both the legal description and common address or location for which the petition or application is requested, as well as a brief statement describing the

nature of the petition or application; and

3. By sending a copy of the notice by certified mail, return receipt requested, to all property owners within 250 feet of the subject property. The notice shall be addressed to the person(s) who last paid property taxes.

4. By notifying such property owners, groups or organizations of the proposal in writing as the City deems desirable.

17.16 WRITTEN PROTESTS

In the event of written protest against the petition or application, signed and acknowledged by the owners of 20 per cent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage immediately adjoining or across the alley or rear line therefrom, or by the owners of 20 per cent of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district, and filed with the City Clerk, such petition or application shall not be approved except by the favorable vote of two-thirds of all trustees then holding office.

17.17 HEARING OFFICER ALTERNATIVE PROCESS

Pursuant to 65 ILCS 5/11-13-14.1, in the event the City Council determines that a zoning petition filed with the City to be heard by the Commission is likely to require a hearing of such duration or complexity so as to cause difficulties or hardships upon the members of the Commission to attend and adequately manage all of the sessions of the hearing, then the City Council may at its sole discretion by ordinance establish the position of Hearing Officer and delegate to said officer the authority to conduct said hearing. The hearing officer alternative process shall be established and conducted in the following manner:

1. Appointment, Qualifications and Duties of Hearing Officer: The City Council shall appoint a Hearing Officer to govern the proceedings under this Zoning Code. The Hearing Officer will preside over the hearing. The Hearing Officer shall be a licensed attorney in the State of Illinois. The Hearing Officer shall have the duty to conduct a fair hearing, to maintain order, and to ensure development of a clear, complete and concise record of the proceedings. The Hearing Officer, if requested by the Commission, shall prepare recommended findings of fact and law for consideration by the Commission.

2. Evidentiary Standards: The Hearing Officer shall not be bound by the strict rules of evidence as applied in the Courts of Illinois pertaining to civil actions. The Hearing Officer shall receive evidence which is material, relevant and would be relied upon by reasonably prudent persons in the conduct of serious affairs. When the admissibility of evidence depends upon an arguable interpretation of substantive law, the Hearing Officer shall admit such evidence.

3. Public Hearing Parameters: All parameters for public hearings, including but not limited to notice requirements, shall comply with this Zoning Code unless altered by the provisions listed in this Section 17.17:

    a. Within a reasonable time from the date that the complete zoning petition is filed, the date, time and location of the hearing on the petition shall be determined by the Hearing Officer in consultation with the Commission, but the hearing shall begin no later than 90 days following said filing.

    b. The City shall reserve the right to engage the services of one or more court reporters to provide transcripts of all sessions of the hearing, which transcripts shall be deemed

to constitute the minutes of the hearing. Any and all costs associated with such engagements, including the necessary copying of transcripts required for internal use by the City, the Commission, and the Hearing Officer, shall be borne by the petitioner.

c. Any and all costs associated with the compensation and expenses of the Hearing Officer shall be at the petitioner's expense.

d. The hearing shall be treated as if it were equal in all respects to a hearing conducted in normal circumstances by the members of the Commission, except that the attendance of one member of the Commission shall be deemed to constitute a quorum for the purposes of the hearing officer alternative process. After the Hearing Officer has closed all testimony and complete transcripts of the proceedings up to that point have been received, Commission members will then begin their deliberations in order to prepare a recommendation. Before beginning their deliberations, the Commission members shall be required to sign an affidavit attesting that they have received and read all the transcripts of the proceedings as a substitute for any sessions at which any member may not have been able to be in attendance. The deliberative and recommendation phase of the proceedings by the Commission shall require the normal quorum of four members to be in attendance.

e. If, in the City's opinion, City facilities are not sufficient to accommodate the number of persons expected to attend the hearing, the City may arrange for the hearing to be conducted at another site. In such a circumstance, the City is authorized to rent appropriate facilities and equipment, including but not limited to an adequately-sized meeting space such as an auditorium, as well as a sound system, chairs, tables, and associated services such as custodians and set-up personnel as may be necessary to conduct a proper hearing. Any and all costs associated with such arrangements shall be at the petitioner's expense.

f. The City Attorney or his designee shall serve as legal advisor, and the City Administrator or his designee shall serve as staff advisor, to the Hearing Officer and Commission.

g. All testimony at the hearing shall be under oath or affirmation.

h. Any person appearing at the hearing shall have the right to give testimony and comment on the zoning petition. Any person testifying shall be required to state their name and address and who they are representing.

i. The Hearing Officer reserves the right to prevent argumentative comments, prohibit personal attacks on other parties, maintain order and decorum during the hearing process, and prevent irrelevant, incompetent and unnecessarily cumulative or repetitive materials in the record. The Commission members reserve the right at all times to ask questions of or reply to any party testifying in order to clarify an issue, statement or fact.

j. Any person shall have the right to be represented by a licensed attorney-at-law at the hearing. Such attorneys shall have the right of reasonable cross-examination. The scope of cross-examination shall be determined by the Hearing Officer.

k. The City, at its sole discretion, shall have the right to determine whether the information provided can be evaluated by qualified professionals on its staff, and if the City cannot accomplish this evaluation because such qualified personnel are not available and the employment of such persons would impose a financial burden upon the City, then the

City shall have the authority to retain the services of one or more professional consultants to assist the City staff and Commission in the process of reviewing any aspect of the zoning petition. Any and all expenses of such services shall be at the petitioner's expense. Such consultants shall have the same standing to testify and to be cross-examined as may be necessary as any other witnesses at the hearing.

l. Members of the public shall be allowed to obtain copies of any documents filed with the City upon application and payment to the City of the actual cost of reproduction in accordance with the Freedom of Information Act.

m. The City, in consultation with the Hearing Officer and the Commission, shall have the authority to establish reasonable rules and procedures for the conduct of hearings and the order of business to be followed during hearings.

pjh:Marengo.Zone\Section 17.Administration

Section 18
INTERPRETATION: PURPOSE AND CONFLICT

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of the safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Zoning Code to interfere with, abrogate, annul or repeal any ordinance, rules or regulations previously adopted and not in conflict with any of the provisions of this Zoning Code or which shall be adopted, pursuant to law relating to the use of buildings or premises, nor is it intended by this Zoning Code to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that where this Zoning Code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by such other ordinances or such easements, covenants or other agreements, the provisions of this Zoning Code shall control.

Section 19
FEES

Fees pertaining to petitions or applications for zoning text or map amendments, special use permits, certificates of compliance, planned developments, variations and for appeals to the Commission shall be established by action of the City Council from time to time (see Chapter 20 of the Marengo Municipal Code). Such fees shall be due and payable to the City at the time of filing of an application or petition. The petitioner or applicant shall, in addition to such fees, bear the City's cost of preparing and publishing the public notice, bear the cost of preparing, copying or printing, and distribution of all documents and drawings necessary for review of the petition or application by the City, recording and filing of ordinances or documents when such publication, recording or filing is required, and bear the cost of all fees and expenses incurred by the City, including but not limited to fees charged by a professional land consultant, attorneys' fees and engineers' fees, when those fees are incurred by the City regarding any petitions or applications heard by the Commission.

Section 20
VIOLATIONS: PENALTY

Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Zoning Code shall be fined not less than $50.00 nor more than $1,000.00, plus the City's cost of prosecution including reasonable attorney's fees, for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 21
VALIDITY

Should any section, clause, or provision of this Zoning Code be declared by the courts to be invalid, the same shall not affect the validity of the Zoning Code as a whole or any part thereof, other than the part so declared to be invalid.

Section 22
WHEN EFFECTIVE

This Zoning Code is hereby declared to be urgent and necessary for the immediate preservation of the public peace, health, and safety, and shall be in full force and effect from and after its due passage, approval, and recording and publication as provided by law.

PASSED by the City Council and approved by the Mayor this 26th day of August, 2002.
pjh:Marengo.Zone\Section18to22.end

CHAPTER 22
ZONING

22.01 Zoning Regulations

22.01 ZONING REGULATIONS

The zoning regulations of the City of Marengo, established by Ordinance 02-8-2, passed and approved August 26, 2002, and subsequent amendments and supplements thereto are continued in full force and effect.