

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS AND SAVING CLAUSES

40-1-1 **PURPOSE.** In accordance with State law, this Code regulates structures and land uses in order to preserve, protect, and promote the public health, safety and welfare. More specifically, this Code is intended to assist in achieving the following objectives:

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

(B) To discourage development of buildings and uses on sites not suited for development;

(C) To protect the character and stability of sound existing residential, commercial and industrial areas;

(D) To conserve and increase the value of taxable property throughout the City;

(E) To ensure the provision of adequate light, air and privacy to all occupants of all buildings;

(F) To provide adequate parking and access for all buildings and lots;

(G) To reduce congestion on the public streets and highways;

(H) To protect property from damage caused by fire, or by flooding and poorly controlled storm water runoff;

(I) To guide the provision of water, sewer, storm water, and other utilities and municipal services;

(J) To reduce the initial costs and future maintenance expenses of public and private improvements and services through thoughtful planning; and

(K) To gradually eliminate existing structures and uses that impede achievement of the above objectives.

40-1-2 **SCOPE.** In order to achieve the objectives enumerated in **Section 40-1-1**, this Code:

(A) Divides this entire Municipality into districts, and permits in each district only those structures and uses that are compatible with the character of such district;

(B) Regulates lots size, and the bulk, setbacks, lot coverage, and manner of use of structures;

(C) Imposes supplementary regulations to control certain potentially troublesome structures and uses;

(D) Sets forth standards for off-street parking areas;

- (E) Restricts nonconforming lots, structures, and uses that adversely affect the type of development appropriate in each district; and
- (F) Establishes zoning administrative and enforcement procedures.

40-1-3 JURISDICTION. This Code shall be applicable within the corporate limits of the City of Carlinville, Macoupin County, Illinois. The City does not exercise the right to Extraterritorial Jurisdictional Area.

40-1-4 ANNEXED TERRITORY. Whenever any territory is annexed to the City, the annexed area shall be zoned the same designation as the contiguous territory that is already within the corporate limits unless otherwise designated by appropriate ordinance.

40-1-5 INTERPRETATION. Every provision of this Code shall be construed liberally in favor of this Municipality, and every requirement imposed in this Code shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-6 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of this Municipality shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.

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

40-1-7 SEPARABILITY. If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

40-1-8 REPEALER. All ordinances or parts thereof that conflict with the provision of this Zoning Code are hereby repealed to the extent necessary to give this Code full force and effect.

ARTICLE II - DEFINITIONS

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

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

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

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

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

(E) The term "shall" is mandatory.

(F) The term "may" is discretionary.

(G) The term "this Municipality" shall mean the City of Carlinville, Illinois.

(H) The words "lots," "parcel," "tract," and "site" shall be synonymous.

(I) The phrases "used for," "arranged for," "designed for," "intended for," "maintained for," and "occupied for" shall be synonymous.

40-2-2 SELECTED DEFINITIONS.

Abutting: As applied to lots, "abutting" means having a common lot line, or so located in relation to each other that there would be a common lot line but for the existence of a street, alley, or other public right-of-way.

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

Accessory Building: A subordinate building(s) or structure(s) detached from the main building, located in the rear yard, the use of which is incidental to the use of the principal structure or main building.

Accessory Use: Any structure or use that is:

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

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

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

Adjacent: Next to or adjoining.

Adult Business: Any establishment having as a substantial or significant portion of its stock in trade or business activity in a use such as, but not limited to, the following: adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, adults-only massage parlors, rap parlors, or adults-only saunas, where explicit sexual conduct is depicted and/or sexual activity is implicitly or explicitly encouraged or tolerated.

Adult Entertainment Business: Synonymous with "adult business," "adults-only massage parlor," and "adults-only sauna" as defined herein.

Adult Entertainment Center: An enclosed building or part of an enclosed building which contains one or more coin-operated mechanisms which, when activated, permit a customer to view the human male or female genitalia; pubic hair, buttocks; perineum; anal or pubic regions; or female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above described manner, after paying any admission fee for the viewing of the same activity.

Adults-Only: Any items or activities emphasizing, depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity.

Adults-Only Bookstore: An adults-only establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principle emphasis on matters depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity. An establishment having adults-only items as a substantial or significant portion of its stock, that sells or displays adults-only items for sale to patrons therein.

Adults-Only Cabaret: An establishment or place primarily in the business of featuring topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-Only Massage Parlor: An establishment or place primarily in the business of providing massage services where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

Adults-Only Motion Picture Theater: An enclosed building used regularly and routinely for presenting adults-only material distinguished or characterized by an emphasis on matter depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity, for observation by patrons therein.

Adults-Only Sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

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

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

Alter: To change, modify or make different the size, shape, elevation or use of a structure.

Amendment: A change in the provisions of this Code (including those portions incorporated by reference), and the procedures set forth herein.

Apartment: A dwelling unit situated in a multiple-family dwelling.

Apartment Hotel: A multiple-family dwelling which furnishes its tenants services customarily provided by hotels, but which does not furnish such services to the transient public.

Attached: As applied to buildings, "attached" means having a common wall and/or a common roof (includes breezeways, carports, garages, etc.).

Auditorium: A room, hall or building made a part of a church, theater, school, recreation building or other building assigned to the gathering of people.

Basement: A story having **one-half (1/2)** or more of its height below the average level of the adjoining ground.

Bed and Breakfast: An operator-occupied residence providing accommodations for a charge to the public with no more than **five (5)** guest rooms for rent, in operation for more than **ten (10) nights** in a **twelve (12) month** period. Only breakfast may be provided to the guests. Bed and breakfast establishments shall not include motels, hotels, boarding houses, or food service establishments.

(A) "Operator" shall mean the owner of the bed and breakfast establishment, or the owner's agent, who is required to reside in the bed and breakfast establishment or on contiguous property.

(B) "Guest Room" shall mean a sleeping room intended to serve no more than **two (2)** transient guests per night.

Billboard: A sign advertising a commodity, business, service, or event not available or conducted upon the premises where such sign is located or to which it is affixed.

Boarding House: A building or portion thereof—other than a hotel, motel or apartment hotel—containing lodging rooms for **three (3)** or more persons who are not members of the keeper’s family, and where lodging and/or meals are provided by prearrangement and for definite periods.

Booth: Any enclosure that is specifically offered to patrons of an adult business for the private viewing of any adults-only item or movie. Said definition does not include enclosures that are used as private offices by any operator, employee, or agent for attending to the tasks of their employment and are not offered for use by the public.

Building: Any covered structure permanently affixed to land and designed or used to shelter persons or moveable, personal property.

Building Height: The vertical distance measured from the average elevation of the proposed finish grade at the front wall of the building to the highest point of the roof.

Building Line: The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way line.

Bulk: Any one or any combination of the following:

- (A) Size or height of structure;
- (B) Location of exterior walls at all levels in relation to lot lines, streets, or other structures;
- (C) Floor/area ratio;
- (D) Yards or setbacks;
- (E) Lot coverage (see definition).

Camping Trailer: A mobile structure designed for temporary occupancy.

Camping Trailer Park: A lot developed with facilities for accommodating temporarily occupied camping trailers.

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

Certificate of Zoning Compliance, Final: A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

Church: A building designed or used for regularly scheduled worship services.

Club/Lodge: A nonprofit association of persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased, converted or sold, whether to the consuming public (retail) or to other businesses (wholesale), but excluding any heavy industrial use. Operations on commercial property shall be such that they are not noxious or offensive by reason of the emission of smoke, dust, gas, fumes, odors, noise, or other vibrations beyond the confines of the buildings used therefore.

Community Residence: A group home or specialized residential care home serving unrelated persons with handicaps which is licensed, certified or accredited by appropriate local, state or national bodies. **Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse, or for treatment of communicable disease.**

Community Residence - Large: A community residence serving **nine (9) to fifteen (15) persons** with handicaps.

Community Residence - Small: A community residence serving **eight (8) or fewer** persons with handicaps in a family-like atmosphere.

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

Convenience Shop: Any retail commercial or service establishment offering goods/services.

Day Care Center: See "Nursery School."

Deck: An open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

Detached: As applied to buildings, "detached" means surrounded by yards, parking lots, etc. 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.

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

Driveway: An area established or used for ingress or egress of vehicles from a street or thoroughfare to any point on private or public property.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, and other accommodations for the transient public. Modular dwellings on permanent foundations shall be treated in the same manner as conventionally constructed dwellings (see definition for modular and permanent foundation).

Dwelling, Multiple-Family: A building or portion thereof containing **two (2)** or more dwelling units.

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

Dwelling, Two-Family/Duplex: A dwelling containing **two (2) dwelling units**.

Dwelling Unit: One or more rooms designed or used as living quarters by one family. A "dwelling unit" always includes a bathroom and a kitchen.

Education: The act or process of obtaining knowledge and/or skills by instruction.

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 put up by the fitting together of materials or parts such as a building.

Establishment: Either of the following:

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

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

(1) the activity is a logical and separate entity from the other activities within the building and not a department of the whole; and

(2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

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

Extend: To increase the amount of floor area or land area devoted to an existing use.

Extraterritorial Jurisdictional Area: The **Illinois Compiled Statutes, Chapter 65, Section 5/11-12-6** grants municipalities in the State of Illinois planning and zoning authority **one and one-half (1 ½) miles** beyond their corporate limits.

Factory-Built Home: Any residential dwelling that is wholly, or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site on a permanent foundation (see definition for Permanent Foundation). Factory-built homes shall include, but are not limited to, manufactured homes (A) and modular homes (B).

(A) **Manufactured Homes.** A residential dwelling built in accordance with the Federal Manufactured Home Construction and Safety Standards.

(B) **Modular Home.** A residential dwelling built in a factory to a residential construction code other than the Federal Manufactured Home and Safety Standards, built and transported in sections or halves. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel or other approved location. This will distinguish a modular from a mobile home which has a 2-inch by 4-inch metal plate mounted on the taillight (rear) end of the mobile home. Modular housing is similar in many ways to conventionally constructed housing including construction on a permanent foundation (see definition for Permanent Foundation). Modular housing as herein defined shall be considered single-family dwellings.

Family: Any number of persons related by blood, marriage, or adoption, living, cooking, and dining together as a single housekeeping unit, and including no more than **two (2)** boarders or lodgers.

Filling Station: A building and premises or portion thereof designed and primarily used for the retail sale of gasoline or other motor fuel, oil, and motor vehicle parts, supplies, and accessories. A filling station may include secondary facilities for washing vehicles, for making minor automotive repairs and for other uses normally called a convenience store.

Floor Area, Gross: As used in determining floor/area ratios and parking requirements, the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of attached buildings. Gross floor area includes all of the following: basement floors; attic floor space; halls, closets, stairwells; space devoted to mechanical equipment; and enclosed porches.

Freight Terminal: A building to which freight is brought by truck, air or railroad freight cars for later distribution.

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

Garage, Private: An accessory building or portion of a main building designed or used for the primary purpose of parking and storage of motor vehicles of the occupants of the premises.

Garage, Public: Any building or premises, other than a private garage, used for equipping, refueling, servicing, repairing, hiring, selling, or storing of motor vehicles.

General Commercial: An area permitting the construction and/or operation of businesses or organizations in categories such as retail and service uses, filling stations, day care centers, offices, mini-warehouses, storage facilities, eating and drinking places, public utility buildings, motor vehicle services and hotels. **(Ord. No. 1586; 03-16-09)**

Governmental: The agency, machinery, or organization through which a political institution or unit exercises authority and performs duties.

Grandfathered: Creating an exemption based on circumstances previously existing to the effective date of this Code. All construction projects "Grandfathered" at the conception of this Code in 2002 shall have a **five (5) year** expiration. **(Ord. No. 1564; 01-21-08)**

Heavy Industrial: A use engaged in the basic processing, fabricating and/or manufacturing of materials or products, or a use engaged in storing of or manufacturing processes using flammable or explosive materials or storage or manufacturing processes that involve hazardous or commonly recognized offensive conditions or hazardous materials.

Home Occupation: A home occupation is an occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

Hospital: An institution devoted primarily to the maintenance and operation of facilities around-the-clock for the diagnosis, treatment, or care for members of the general public suffering from disease, injury, or other abnormal physical conditions. The term "hospital" as used in this Code does not include institutions operating solely for the treatment of insane persons, drug addicts, and alcoholics, nor does it include convalescent or nursing homes.

Hotel: An establishment containing lodging accommodations designed for use by travelers or temporary guests. Facilities provided may include a general kitchen, maid service, desk service, meeting rooms, restaurants, cocktail lounges, and similar ancillary uses, but not cooking facilities in guest rooms.

Immobilized Mobile Home: As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and place on a permanent foundation.

Industrial: Area developed for, used in, or relating to an industry.

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

Junk Yard: Any area where waste, discarded or salvaged material are bought, sold, exchanged, baled or packed, disassembled, handled, or stored, but not including areas where such uses are conducted entirely within a completely enclosed building.

Kenel: Any lot or premises on which **three (3) or more dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept for remuneration.

Light Industrial: The use engaged in the process of the assembly, packaging, storage, and distribution of previously prepared materials but specifically excluding heavy industrial use. Light industrial use would be such a use that would normally only use light machinery and which activities are carried on entirely within the enclosed, roofed building, which do not use the area around such building for storage of matter or finished product or for loading or unloading operations, and which operations are not noxious or offensive by reason of the emission of smoke, dust, gas, fumes, odors, noise, or other vibrations beyond the confines of the building used therefor.

Live Adult Entertainment: Live, in person performance by individuals.

Loading Space: An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: Land occupied or intended to be occupied by one main building and its accessory buildings and including as a minimum such open spaces exclusive of street areas as are required under this Code and having frontage on a public or private street or road.

Lot, Corner: A lot having at least **two (2)** adjacent sides that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

Lot, Through: A lot having a pair of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

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

Lot Coverage: The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures. For residential categories, the main building shall not occupy more than **sixty percent (60%)** of the lot, including porches but excluding decks and patios. This applies to newly constructed homes and additions to existing structures.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot.

Lot Line, Front: The lot boundary abutting the street.

Lot Line, Rear: An interior lot line which is most distant from and most nearly parallel to the front lot line. The rear lot line on corner lots shall be defined as the line most distant and most nearly parallel to either of the front lot lines as defined elsewhere in these definitions.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: Any area of land designated as a lot on a plat of subdivision recorded or registered with the Recorder of Deeds of Macoupin County, Illinois, in accordance with State law.

Lot Size Requirement: Refers to the lot area, width, and depth requirements of the applicable district.

Lot Size/Bulk Variance: A relaxation of the strict application of the lot size and/or bulk requirements applicable to a particular lot or structure.

Lot Width: The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth; or the same distance measured at a point midway between the front lot line and the rear lot line; or at the rear line of the required front yard (building lines), especially on irregularly shaped lots.

Maintenance, General: The routine upkeep of a structure, premises or equipment, including the replacement or modification of structural components to the extent necessary to keep a structure in sound condition. **(Ord. No. 1564; 01-21-08)**

Massage Parlor: An establishment or place primarily in the business of providing massage services.

Mini-Warehouses: A building, or part of one, for the storage of goods, merchandise, etc., for rent to individuals for a monthly fee.

Mobile Home: A manufactured structure designed to permit its transport on its own wheels, containing complete kitchen and sanitary facilities, and used as a long-term dwelling by one family. A mobile home is built on a permanent chassis that consists of the wheel assembly, undercarriage, and towing hitch assembly. Mobile homes must meet the Federal Mobile Home Construction and Safety Standards. Compliance with this standard can be indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the mobile home.

Mobile Home Park: A parcel not less than **two (2) acres** in area in single ownership/control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of this Code.

Mobile Home Stand: The part of a mobile home extending the full length of the upperside supports of the mobile home constructed of a concrete slab or runners on which the home is placed.

Modulars (Sectional Houses): Built and transported in sections or halves. A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel. This will distinguish a modular from a mobile home which has a 2-inch by 4-inch metal plate mounted on the tail light (rear) end of the mobile home. Modular housing is similar in many ways to conventionally constructed housing including construction on a permanent foundation (see definition for permanent foundation). Modular housing as herein defined shall be considered as single family dwellings.

Motel: A lodging facility usually with blocks of rooms opening directly onto a parking area. Also called motor court.

Motor Vehicle Services: Repairs to any or all motor vehicles including boats. Services to include body work and glass work.

Multiple-Family Residence: See "Dwelling, Multi-Family".

Neighborhood Commercial: An area permitting the construction and/or operation of businesses or organizations in categories such as retail and service uses, filling stations, day care centers, offices, mini-warehouses, storage facilities, eating and drinking places, and public utility buildings. **(Ord. No. 1586; 03-16-09)**

Nonconforming: A use, building or yard which does not, by reason of design, use, or dimensions, conform to the regulations of the district in which it is situated. It is a legal nonconforming use if established prior to the passage of this Code.

Nudity: The display of the human male or female genitalia; pubic hair; buttocks; perineum; anal or pubic regions; female breast, at or below the areola thereof, with no covering or with a less than fully opaque covering; or male genitalia, in a discernible turgid state, with or without covering.

Nursery: A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

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

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

Obscene: Any material or performance is obscene if:

(A) The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and

(B) The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions, or lewd exhibition of the genitals; and

(C) Taken as a whole, it lacks serious literary, artistic, political, or scientific value. **(720 ILCS 5/11-20)**

Office: Any building, or portion thereof, in which the business of a commercial/service enterprise or professional person is transacted.

Off-Street Parking Area: Land that is improved and used primarily for the storage of passenger motor vehicles, free of charge or for compensation. An "off-street parking area," depending on the circumstances of its use, may be either a principal use or an accessory use.

Off-Street Parking Space: A space other than a street or alley designed for use for the temporary parking of a motor vehicle.

Operator: Any person, (whether said person be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager), that conducts, maintains, or owns any adult business.

Park: A piece of ground for public use, recreation and sports.

Patio: An at-grade-paved area without any walls usually adjacent to a building, and which is intended to be used as an outdoor lounging, dining, or entertaining area.

Patron: Any customer, patron, or visitor to an adult business who is not employed by an operator of said establishment.

Permanent Foundation: A permanent support for buildings that are constructed of conventional foundation materials such as concrete or cement blocks. The foundation footing shall extend below the frost line.

Permitted Uses: Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

Person: Any individual, firm, association, organization, or corporate body.

Plan: The geographical and topographical maps, engineering and architectural drawings and specifications, and other information indicating the location and nature of a development.

Porch: A structure attached to a building to shelter an entrance or to serve as a semi-enclosed space, usually covered with a roof, generally open-sided, and usually large enough to allow seating devices.

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.

Private Street: Any street providing access to abutting property that is not maintained by and dedicated to a unit of government.

Rap Parlor: An establishment or place primarily in the business of providing nonprofessional conversation or similar services for adults, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encourages or tolerated.

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

Recreational Vehicle (RV) Park: See Camping Trailer Park.

Refuse: Garbage (food wastes) and trash, but not sewage or industrial wastes.

Rehabilitation: The restoration or reestablishment of a condition of health or useful and/or constructive activity.

Religion: Relating to the acknowledgement or worship of an ultimate reality or deity.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to reconstruct.

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

Right-of-Way, Public: Land which the owner/subdivider has dedicated to the City or to another unit of government for streets and alleys, or land that has been laid out in the original Plat of the City as a public right-of-way.

Roof: An outside structure covering a building including the framework supporting the covering.

Sadomasochistic Activity: Flagellation or torture by or upon a nude person, a person clad in undergarments, a mask, or bizarre costume. In addition, the condition of being fettered, bound, or otherwise physically restrained with the intent to stimulate or arouse sexually the initiator and/or the recipient.

Sanitary Landfill: A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency.

Satellite Dish: Any parabolic/dish-type apparatus, external to or attached to the exterior of a building or structure, capable of receiving, for the benefit of the principal use, television or radio signals. Satellite dishes are larger than **thirty-nine (39) inches** are considered an accessory use and require a permit.

Sauna: An establishment or place primarily in the business of providing a steam bath and/or massage services.

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

Setback: The distance between the front lot line and the building line; or between a side or rear lot line and the side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

Sexual Conduct: Intimate sex acts (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality or sadomasochistic activity. In addition, physical contact intended to stimulate or arouse sexually the initiator and/or the recipient.

Single-Family Residence: Synonymous with Single-Family Dwelling.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

Special Use: A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit.

Stable: A structure, situated on the same lot as a dwelling, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

Stoop: A small porch which is usually not covered with a roof and which is primarily used to provide access to the adjoining building.

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

Street Line: The street right-of-way line abutting a lot line.

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

Structure, Temporary: Any structure that is placed on the property for not more than **ninety (90) days. (Ord. No. 1564; 01-21-08)**

Temporary Use Permit: A permit issued in accordance with the provisions of this Code and valid for not more than **one (1) year**, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

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

Trailer: See "Camping Trailer."

Underage: Any person under **eighteen (18) years** of age, the legally minimum age at which one can purchase or view adults-only items. **(720 ILCS 5/11-20)**

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

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

Variance: A license or permit to do some act contrary to the usual rule.

Vending Machine: An apparatus for the purpose of selling an item or disposing of an item by sale.

Wall Sign: Any flat sign which is placed against a building or other structure and attached thereto in such a manner that only one side is visible.

Wholesale: Refers to the sale of goods or services by one business to another business.

Yard: Open space that is unobstructed except as specifically permitted in this Code and that is located on the same lot as the principal building.

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

Yard, Rear: A yard which is bounded by side lot lines, rear lot lines, and the rear yard line.

Yard, Side: A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

Yard Line: A line in a lot that is parallel to the lot line along which the applicable yard extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

Zoning District: A partition of a municipality by Ordinance divided into sections reserved for different purposes and uses.

Zoning Administrator: The official appointed by the Mayor, with the advice and consent of the City Council, to administer this Code and perform the other duties as set forth in the Code for said Zoning Administrator. **(Ord. No. 1586; 03-16-09)**

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

ARTICLE III – GENERAL ZONING REGULATIONS

40-3-1 ESTABLISHMENT OF DISTRICTS. In order to implement this Code, and to achieve the objectives in **Article I**, the entire Municipality is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>
Agricultural	A
Single Family Residence	S-1, S-2
Mobile Home Residence	MH
Multiple Family Residence	MF
Neighborhood Commercial	C-1
General Commercial	C-2
Industrial	I
Governmental	G
Religion, Rehabilitation, Education	R
City Park	P

Each district is defined in **Section 40-2-2**. Each district’s permitted principal building and accessory uses are listed in **Schedule 40-3-19**.

40-3-2 ZONING MAP AND DISTRICT BOUNDARIES. The boundaries of the listed zoning districts are hereby established as shown on the zoning map of Carlinsville. The zoning map, including all notations and other information thereon, is hereby made a part of this Code by reference. Official copies of the zoning map shall be kept on file in the office of the City Clerk and/or Zoning Administrator.

40-3-3 ANNUAL PUBLICATION. In accordance with State Law, the City shall publish the zoning map not later than **March 31st** of each year. However, no map shall be published for any calendar year during which there have been no changes in zoning districts or regulations.

40-3-4 DETERMINING TERRITORY OF DISTRICTS WITH PRECISION. In determining with precision what territory is actually included within any zoning district, the City shall apply the following rules:

(A) Where a district boundary as indicated on the zoning map approximately follows the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:

- | | | |
|-----|--|------------------------------------|
| (1) | Center line of any street,
alley or highway | Such centerline. |
| (2) | Lot line | Such lot line. |
| (3) | Railroad tracks | Right-of-way line of
such track |

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

(C) All territory (including bodies of water) that lies within the zoning jurisdiction of this Municipality, but which is not shown on the zoning map as being located within any district, shall comply with the zoning regulations of the most restrictive adjoining district.

40-3-5 GENERAL PROHIBITION. No structure or part thereof shall be erected, used, occupied, enlarged, altered, relocated or reconstructed except in conformity with the provisions of this Code. Similarly, no lot or part thereof shall be used, occupied, or developed except in conformity with the provisions of this Code.

(A) **Agricultural Exemption.** The provisions of this Code shall not be interpreted or administered so as to restrict the erection, maintenance, alteration, or extension of buildings (including farmhouses) or structures used or intended to be used for agricultural purposes on agricultural land except that such buildings or structures shall be required to conform to applicable setback regulations. Whenever a portion of a tract of land ceases to be used primarily for agricultural purposes, all pertinent provisions of this Code shall apply to that portion.

40-3-6 UNLISTED USES PROHIBITED. Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the City Council, following consultation with the Zoning Administrator, finds that the unlisted use is similar to and compatible with the listed uses, they may amend this Code in accordance with **Section 40-10-8** to allow such use. The Council's decision shall become a permanent public record, and any unlisted use that they approve shall thereafter have the same status as listed uses.

40-3-7 TEMPORARY USES. Except as specifically provided otherwise in this Code, no temporary structure shall be used or occupied for any purpose, and no land shall be used for any temporary enterprise, whether for profit or not-for-profit, unless a temporary use permit has been obtained. Applications for temporary use permit shall be

treated in the same way as applications for special use permits. A temporary use permit shall be valid for not more than **one (1) year** unless it is properly renewed (**See Section 40-10-7**).

40-3-8 **ONE BUILDING AND ALL YARDS ON ONE LOT.** Except as specifically provided otherwise:

(A) Only one principal building or structure shall be permitted on any residential lot; and

(B) No portion of any minimum area, minimum dimensions, or minimum yards required for any lot, structure, or use shall be counted to satisfy the minimum area, dimensions, or yards requirements for any other lot, structure or use.

40-3-9 **ACCESS REQUIRED.** No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or a private street.

40-3-10 **LIMITATIONS.** See Schedules (**Article III, Section 40-3-18 and 40-3-19**) for limitations and schedule listings located at the end of this Code.

40-3-11 **FRONT SETBACKS - CORNER/THROUGH LOTS.** Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

40-3-12 **FRONT SETBACKS IN CERTAIN BUILT-UP AREAS.** Except as specifically provided otherwise, in the Residential zoning district and in the Community Business district, where lots having **fifty percent (50%)** or more of the frontage on one side of a street between intersections (that is, in one block) are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback on that block shall be the average of the existing front setbacks; provided however, that in any built-up area, no front setback shall be less than **fifteen (15) feet**, nor shall any front setback greater than **fifty (50) feet** be required.

40-3-13 **EXCEPTIONS TO HEIGHT LIMITS.**

(A) **Necessary Appurtenances.** Chimneys, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations for the district in which they are located if they comply with all other pertinent ordinances of the City.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by the street lines that are within **twenty-five (25) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that exceeds **four (4) feet** above the level of the adjacent street.

40-3-14 EXCEPTIONS TO SETBACK LINES. Certain intrusions into the required setback areas are permitted, to-wit:

(A) Where principal buildings are commonly attached as in the downtown business area.

(B) Canopies and roof overhangs up to the extent of **three (3) feet** into the setback area.

40-3-15 ACCESSORY USES. An "accessory use" means any structure or use which is:

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

(B) Necessary or contributing to the comfort and convenience of the occupants (whether individuals or a commercial enterprise) of the principal structure or use served; and

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

40-3-16 SPECIFICALLY PROHIBITED ACCESSORY USES. The following accessory uses are strictly prohibited unless expressly permitted in particular zoning district(s):

(A) Use of an accessory structure as a dwelling.

40-3-17 SEWERS, SEPTIC TANKS. In all districts, property owners of all buildings and places where people live, work, or assemble shall provide for the sanitary disposal of all sewage in accordance with the applicable codes and ordinances of this Municipality.

40-3-18 SCHEDULE; AREA AND BULK REGULATIONS; PARKING REQUIREMENTS. (See Schedule 40-3-18 located at the end of this Code)

(A) To facilitate public understanding of this Code and for the better administration and convenience of the use thereof, the regulations limiting the dwelling unit density, the heights, bulk and arrangement of buildings, and requiring minimum off-street parking for each of the districts established by **Section 40-3-1** hereof (or specified

use), are set forth in **Schedule 40-3-18** hereof. Such **Schedule 40-3-18** is hereby adopted and declared to be an integral part of this Code, and it may be amended in the same manner as any other part of this Code.

40-3-19 **SCHEDULE; PERMITTED USES, ACCESSORY USES; SPECIAL USES.** (See **Schedule 40-3-19** located at the end of this Code)

(A) To facilitate public understanding of this Code and for the better administration and convenience of use thereof, the regulations designating permitted uses, permitted accessory uses, special uses and specifically prohibited uses for each of the districts established by **Section 40-3-1** hereof, are set forth in **Schedule 40-3-19** as part of **Section 40-3-1** hereof. Such **Schedule 40-3-19** is intended and declared to be an integral part of this Code and it may be amended in the same manner as any other part of this Code.

(B) Each column refers to a specific district which lists the permitted uses, permitted accessory uses and special uses, and are read vertically under a district column.

(C) Limitations and requirements in **Schedule 40-3-19** as used in a column shall mean and include the specific limitations and requirements as set forth in the same column for the district referred to. Where reference is made in **Schedule 40-3-19** to another section or provision of this Code, such section or provision referred to shall thereby be incorporated as an integral part of the requirements including such reference. All provisions of this Code shall apply as integral parts of this Section although not specifically cited as a column.

ARTICLE IV

SUPPLEMENTARY ZONING REGULATIONS

40-4-1 **APPLICABILITY OF ARTICLE.** This Article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome structures and uses. These regulations apply in every zoning district where the specific structure or use is permitted or allowed by special use permit. But if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-4-2 **CAMPING TRAILERS.** The regulations of this Section do not apply to camping trailers or other similar recreational vehicles parked in a permitted camping trailer park. The requirements of paragraphs (A), (C), and (D) do not apply to camping trailers or other similar recreational vehicles parked on a permitted camping trailer sales lot.

(A) Only one camping trailer or other similar recreational vehicle can be parked on any one lot of a dwelling. A second camping trailer or similar recreation vehicle can be parked not to exceed **fifteen (15) consecutive days** in length during a **twelve (12) month** period.

(B) No camping trailer or other similar recreational vehicle shall be used as living quarters (other than in a camping trailer park).

(C) No camping trailer or other similar recreational vehicle shall be used as an office or for any other commercial purpose.

(D) No camping trailer or other similar recreational vehicle shall be parked on any front yard, except on a driveway.

40-4-3 **FENCES, WALLS.**

(A) No barbed wire or electrically charged fence shall be erected or maintained anywhere in the Municipality.

(B) No fence, wall or other obstructions shall be erected within any public right-of-way without the written approval of the Zoning Administrator.

(C) No fence, wall, or other obstruction shall be erected in violation of the Illinois Drainage Code.

(D) Every fence, wall or other obstruction shall conform to the special height restrictions applicable in areas near intersections (**See Section 40-3-13(B)**). No fence, wall or other obstructions in any front yard area shall exceed **six (6) feet** in height or in any rear or side yard exceed **ten (10) feet** in height.

(E) Every fence, wall, or other obstruction shall have a minimum **eighteen (18) inch** setback from the property line, except as in (G) below.

(F) No fence, wall, or other obstruction should obstruct view at an intersection.

(G) A shared fence on a property line is permitted as long as both parties sign an agreement.

(H) Wood, vinyl or composites, wrought iron and chain-link will be allowed. All other types require a variance. **(Ord. No. 1564; 01-21-08)**

40-4-4 FILLING STATIONS.

(A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street right-of-way line, side lot line, or rear lot line.

(B) Every access way (curb cut) to a filling station shall be located at least **two hundred (200) feet** from any fire station, school, public library, church, park, or playground.

(C) All trash receptacles, except minor receptacle adjacent to the gasoline pumps, shall be screened from view.

(D) All existing filling stations prior to adoption of this Code that do not meet the requirements of **Section 40-4-4**, subsections (A), (B) and (C) will be permitted to operate.

40-4-5 HOME OCCUPATIONS. A home occupation is an occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

(A) No home occupation in Residential Districts shall be permitted that:

- (1) Requires exterior building alterations to accommodate the occupation;
- (2) Generates traffic, parking, sewerage or water use in excess of what is normal in the residential neighborhood;
- (3) Creates excessive noise, vibration, glare, fumes, odors, or results in electrical interference or becomes a nuisance;
- (4) Requires parking for customers that cannot be accommodated on the site and/or not exceeding **one (1)** parking space at curb side of the street;
- (5) Requires the delivery of goods or the visit of customers before **6:00 A.M.** or after **9:00 P.M.**

(B) The following are permitted home occupations provided they do not violate any of the provisions of the previous paragraph:

- (1) Dressmaking, sewing or tailoring;
- (2) Painting, sculpturing or writing;
- (3) Telephone answering;
- (4) Home crafts, such as, but not limited to model making, rug weaving, lapidary work, cabinet making, taxidermy and photography; **(Ord. No. 1564; 01-21-08)**
- (5) Tutoring, limited to **four (4) students** at a time;
- (6) Home cooking and preserving;
- (7) Office for after hours work or as a base of operations for service provided outside and away from the home;
- (8) Laundering and/or ironing;

- (9) Repair of clocks, instruments and other small appliances which do not create a nuisance due to noise, vibration, glare, fumes, odors, or results in electrical interference;
 - (10) Barber shops and beauty parlors;
 - (11) Babysitting and/or day care services not required to be licensed by the State of Illinois;
 - (12) Bed and breakfast establishments.
- (C) The following are prohibited as home occupation:
- (1) Dance and exercise studios;
 - (2) Private clubs;
 - (3) Repair shops which may create a nuisance due to excessive noise, vibration, glare, fumes, odors or electrical interference;
 - (4) Restaurants;
 - (5) Stables or kennels and related services;
 - (6) Tourist homes;
 - (7) Automobile repair or paint shops.
- (D) Any proposed home occupation that is neither specifically permitted by paragraph (B) nor specifically prohibited by paragraph (C) shall be considered a Special Use and granted or denied upon consideration of those standards contained in paragraph (A) and under the procedures specified in **Article X**, Special Uses and Amendments.
- (E) Home occupation businesses shall be limited to the applicant who legally resides in the residence.
- (F) Home occupations requiring a special use permit must have an annual permit issued by the Zoning Administrator. The annual permit fee will be **Ten Dollars (\$10.00)**.

40-4-6 HOSPITALS, NURSING HOMES.

- (A) The lot on which any hospital or sanitarium is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **five (5) acres**.
- (B) The lot on which any nursing home is situated shall have a minimum width and depth of **two hundred (200) feet**, and a minimum area of **one and one-half (1.5) acres**.

40-4-7 JUNK YARDS. A junk yard is defined as an open area of land and any accessory structures thereon that are used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery and equipment not in operable condition, or parts thereof, and metals, glass, paper, plastics, rags and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard. Junk yards shall not be allowed within the corporate limits of this Municipality. **(Ord. No. 1564; 01-21-08)**

Junk yard shall not be allowed within the corporate limits of this Municipality. Those junk yards in existence prior to the adoption of this Code shall be "Grandfathered". Such yards may be sold so long as it continues to be a junk yard. If the property ceases to be a junk yard after **one (1) year**, it will be re-zoned the same as the district that adjoins or surrounds it.

(A) All existing junk yards within the City limits of Carlinville prior to the adoption of this Code must be screened by a wall, solid fence, or closely planted shrubbery **eight (8) feet** high and of sufficient density to block the view from adjacent property within **three (3) years** of the adoption of this Code.

40-4-8 SANITARY LANDFILLS. Sanitary landfills are not permitted within the jurisdictional limits of this Zoning Code.

40-4-9 SCHOOLS.

(A) The lot on which any school is situated shall have the minimum area indicated below:

<u>Type of School</u>	<u>Minimum Lot Area</u>
Nursery, Day Care Center	As required by State law for Nursery/Day Care Centers
Other (elementary, junior high, senior high)	As required by State law normally four (4) acres , plus one (1) additional acre for every one hundred fifty (150) students in excess of two hundred (200) .

(B) The principal building of any school shall be located at least **twenty-five (25) feet** from all lot lines.

40-4-10 PRIVATE SWIMMING POOLS.

(A) Privately owned artificial basins of water used for swimming or wading (hereinafter "swimming pools") shall be in conformity with the requirements of this Article; provided, however, these requirements shall not be applicable to any such swimming pool less than **twenty-four (24) inches** deep or having a surface area of less than **two hundred fifty (250) square feet**.

(B) No person shall own, possess, build, construct, install, enlarge or alter a swimming pool as defined in **Section 40-4-10(A)** unless there shall be erected and maintained an adequate enclosure, either surrounding the property upon which the swimming pool is located or the pool area itself, sufficient to make such a body of water inaccessible to small children.

(C) All permanent swimming pools, regardless of whether they are constructed in the ground or above the ground, shall be protected by a fenced enclosure with a height of at least **four (4) feet** above the underlying ground level and shall be equipped with a self-latching gate having a latch at least **four and one-half (4.5) feet** over grade. The gate to the fenced enclosure around each swimming pool shall be located with a lock which can be opened only with a key or combination whenever the swimming pool is not in use or is equipped with and controlled by a self-latching device on the inside of the gate and spring closing hinges.

(D) The provisions of **Section 40-4-10** shall apply to any swimming pool as herein defined, built, constructed, installed, enlarged, or altered after the effective date of this Code. Within **three (3) months** of the effective date of this Code existing swimming pools must meet the standards outlined herein.

40-4-11 **UTILITY SUBSTATIONS.** Every electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, water storage facility, or similar facility shall be deemed a special use, and shall conform to the following regulations:

(A) New facilities shall meet the minimum area and dimension requirements of the district in which it is located. Every part of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, the structure housing any facility shall be designed and constructed to be compatible with the residential character of the area.

(C) Every such facility shall be screened by close-planted shrubbery at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property. Furthermore, if the Zoning Administrator determines that the facility poses a safety hazard (for example, if there are exposed transformers), he shall require that a secure fence at least **eight (8) feet** in height be installed behind the planting screen.

40-4-12 **(APPROVED) MANUFACTURED HOMES/MODULAR UNITS.** A modular dwelling must have a yellow metal seal, shaped like the State of Illinois, mounted on the interior electrical panel or other approved location. Modular housing will be considered conventional housing and shall be constructed on a permanent foundation (see definition for Permanent Foundation). Modular housing as herein defined shall be considered a single-family dwelling. No modular home shall hereafter be brought into this Municipality unless said home conforms to construction/safety standards adopted by the Federal Manufactured Home and Safety Standards. No modular home shall be installed on any lot in this Municipality that is older than **ten (10) years** from the current date.

40-4-13 **MOBILE HOMES.** The following requirements are supplementary to the Standards in Illinois Mobile Home Safety Act and the Rules and Regulations adopted by the Illinois Department of Public Health pursuant thereto. No mobile home shall hereafter be brought into this Municipality unless said home conforms to construction/safety standards adopted by the Illinois Mobile Home Safety Act. No mobile home shall be installed on any lot in this Municipality that is older than **ten (10) years** from the current date.

40-4-14 **MOBILE HOMES – INDIVIDUAL.**

(A) After the adoption of this Code mobile homes shall only be located or relocated in the MH Mobile Home Zoning District except as otherwise provided herein.

(B) After the effective date of this Code, existing mobile homes in Residential Districts and/or in any other district other than in the MH Mobile Home Zoning Districts will be permitted as long as they are used as residences and as long as the mobile home owner and the lot owner are one and the same individual or entity. Said mobile homes may be upgraded or replaced. When the mobile home or the lot on which the mobile home formerly was located is vacant and not occupied for a period of **twelve (12) consecutive months** or for a total of **eighteen (18) months** during any **three (3) year** period, the property will be re-zoned the same as the district that surrounds it and any existing mobile home on the property will have to be removed. In the existing situations where the mobile home owner and the lot owner are different, if the mobile home is removed from the lot and the lot remains vacant for a period of **ninety (90) days**, then the owner of the lot shall lose the right to rent the lot to another different mobile home owner.

- (C) (1) All mobile homes will be required to be skirted and anchored. Specifically, skirted with fire resistant material to enhance the appearance of the home and to prevent rodent harborage. Skirting shall be equipped with an inspection door at least **twenty-four (24) inches** wide to allow access to the underside of the home; and
- (2) The mobile home shall meet the Manufactured Home Tie Down Code issued by the Illinois Department of Public Health.
- (3) Mobile homes must be located on a mobile home stand extending the full length of the upperside supports of the mobile home. Said stand shall be constructed and located so as to facilitate placement and removal of the mobile home in relation to the abutting roadway. The stand shall sit on a permanent foundation that consists of one of the following: six-inch thick reinforced concrete runners; a four-inch thick reinforced concrete slab; or concrete piers constructed and located so as to facilitate placement and removal of the mobile home in relation to the abutting roadway. The piers shall be constructed of concrete in cylindrical shape not less

than **sixteen (16) inches** in diameter and to a depth of not less than **thirty (30) inches** below surface grade and shall be located at no greater than **eight (8) foot** intervals extending the full length of the underside supports of the mobile home.

- (4) Each mobile home shall have installed appropriate tie-down equipment, namely:
 - (a) Frame tie downs **two (2) feet** from each end and a maximum of **twelve (12) feet** spacing on each side of the length of the home.
- (5) Each mobile home shall be rendered immobile by removing the wheels, tongue and hitch and placing the mobile home on a permanent foundation.

(D) All mobile homes shall be connected to all available public utilities in accordance with the requirements for any residential structures in the City, shall be appropriately skirted and shall conform to all requirements that are applicable to conventionally constructed dwelling units.

(E) Mobile homes to be placed and occupied after the effective date of this Code can only be allowed by approved license and occupancy permit.

- (1) Every applicant for a license shall submit to the City Clerk a written application for mobile license. This application shall be accompanied by an inspection fee of **Fifty Dollars (\$50.00)**.
- (2) The license application shall be referred to the Zoning Administrator for review and inspection according to the minimum requirements established by this Article and other applicable ordinances, statutes and regulations. The Zoning Administrator will either approve or deny the application.
- (3) Issuance of the mobile home license by the Zoning Administrator shall authorize the applicant to proceed with installation, placement and location of the mobile home. Occupancy of the dwelling will not be permitted until the issuance of an occupancy permit.
- (4) The holder of a mobile home license must make application for an occupancy permit within **one hundred eighty (180) days**. If no application for an occupancy permit is filed with the Zoning Administrator, the license shall be revoked. Any applicant denied an occupancy permit may reapply for an occupancy permit within **thirty (30) days** of such denial by the Zoning Administrator. If applicant does not reapply for an occupancy permit within such **thirty (30) days**, then the license issued shall be revoked.

ARTICLE V

**SUPPLEMENTARY OFF-STREET PARKING
AND LOADING REGULATIONS**

40-5-1 **APPLICABILITY OF ARTICLE.** Off-street parking and loading shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

40-5-2 **EXISTING PARKING/LOADING FACILITIES.**

(A) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced below, or if already less than, shall not be further reduced below the requirements and standards for similar new structures or uses.

(B) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, additional off-street parking and loading facilities need not be provided, but parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, gross floor area, seating capacity, etc., additional parking and loading facilities commensurate with such increase in use-intensity shall be provided.

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

40-5-3 **PARKING DESIGN AND MAINTENANCE STANDARDS.**

(A) **Spaces.**

(1) Each required parking space shall be at least **nine (9) feet** wide and **nineteen (19) feet** long, and shall have at least **seven (7) feet** of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.

(2) For multi-family, business and industrial uses, markings shall be laid and restored as often as necessary to clearly delineate each parking space.

(B) **Interior Aisles.** Aisles within parking lots in Business and Industrial Districts shall be sufficiently wide to permit safe and efficient vehicular movement in the aisles and into and out of parking spaces. Aisles designed for two-way traffic shall be at least **twenty-two (22) feet** wide. One-way aisles designed for **sixty (60) degree** parking shall be at least **eighteen (18) feet** wide.

(C) **Access Way.**

(1) Parking areas in the Business and Industrial Districts shall be designed so that ingress to and egress from a parking space

is from an aisle or driveway, not directly from the public right-of-way.

- (2) No access way to any parking area shall be located within **thirty (30) feet** of any corner formed by the intersection of the rights-of-way of **two (2)** or more streets. At intersections where traffic control devices are installed, the Zoning Administrator, after consulting with the Chief of Police, may increase this requirement as necessary to prevent traffic hazards.
- (3) The access way to every parking lot located in any business and industrial zoning district shall be at least **twenty-four (24) feet** wide unless **two (2)** one-way drives, each **twelve (12) feet** wide, are provided.
- (4) The access way to every parking area located in any residential zoning district shall be at least **ten (10) feet** wide; but if the parking area contains more than **eight (8) parking spaces** or if the access way is longer than **one hundred (100) feet**, access shall be provided either by **one (1)** two-way drive at least **twenty (20) feet** wide or by **two (2)** one-way drives, each at least **ten (10) feet** wide.

(D) **Lighting.** Any light(s) used to illuminate any parking area shall be arranged or shielded so as to confine direct light rays within the parking area boundary lines to the greatest extent practicable.

40-5-4 LOCATION OF PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) 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 except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area.

(B) All parking spaces accessory to permitted non-dwelling uses located in the residential zoning district generally shall be located on the same lot as the use served. However, by special use permit, such parking facilities may be located on another parcel within **two hundred (200) feet** of the use served. No commercial vehicle exceeding **one (1) ton** cargo capacity or exceeding **twenty (20) feet** in length shall be parked anywhere in a residential district (except for normal loading, unloading and service call), unless a special use permit has been obtained. No vehicle repair work shall be permitted on any parking lot located in any residential district.

40-5-5 BUSINESS AND INDUSTRIAL DISTRICTS.

(A) Parking spaces accessory to any dwelling located in any business district shall be located within **two hundred (200) feet** of the dwelling. Parking spaces accessory to any other conforming use located in any business or industrial district shall be located within **five hundred (500) feet** of the use served.

(B) No parking space accessory to any use located in business or industrial district shall be located in any residential district except by special use permit; and in no case shall any such parking areas extend more than **five hundred (500) feet** into a residential district.

(C) In any business or industrial district, off-street parking facilities for different buildings or uses may be provided collectively if the total number of spaces so located together is not less than the sum of the separate requirements for each use, and if all regulations governing location of parking spaces in relation to the use served are observed.

40-5-6 PARKING SURFACES. All parking areas and parking lots servicing or being used by commercial businesses shall be graded and improved with a surface approved by the Zoning Administrator. The surface shall be sufficient for the intended use. The surfaces C-1 and C-2 shall be paved properly for the expected use of such lot. Any decision by the Zoning Administrator may be appealed to the Planning Commission and they shall have the final decision.

40-5-7 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. All off-street loading facilities shall conform to the minimum standards as indicated:

(A) **Size Of Space.** Every required off-street loading space shall be at least **twelve (12) feet** wide and **forty-five (45) feet** long exclusive of aisle and maneuver space, and shall have vertical clearance of at least **fourteen (14) feet**. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

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

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

ARTICLE VI

NONCONFORMITIES

40-6-1 **PURPOSE OF ARTICLE.** The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various residential, business and industrial 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. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the emission of noxious fumes or excessive noise, and/or the lowering of property values. **The regulations in this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.**

40-6-2 **NONCONFORMING LOTS.** Any vacant lot that does not conform to **one (1)** or more of the lot size requirements of the district in which it is located may be used in the manner indicated at **Sections 40-6-3** and **40-6-4** if it:

- (A) Is of record on the date of the adoption or amendment of this Code;
- and
- (B) 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 the applicable zoning code or other ordinances.

40-6-3 **RESIDENTIAL.** On any such lot located in any district any permitted structures may be erected, provided all the bulk (see definitions) and setback regulations of the particular district are observed.

40-6-4 **OTHER DISTRICTS.** On any such lot located in the business or industrial districts any structure permitted in the particular district may be erected if the bulk and setback requirements of that district are met.

40-6-5 **NONCONFORMING STRUCTURES.** Any lawful structure which exists on the effective date of the enactment or amendment of this Code, but which could not be erected under the terms of this Code because of restrictions on the lot size, height, setbacks, lot coverage, or other characteristics of the structure, or its location on the lot, may lawfully remain, be repaired and/or be rebuilt or replaced as long as it does not

violate the requirements of this Code to a greater extent than it does at the time of the passage of this Code, provided that the maintaining and/or replacement of mobile homes shall be governed by **Section 40-4-13** and **40-4-14** of this Code.

40-6-6 **NONCONFORMING USES OCCUPYING A STRUCTURE.** If any lawful use occupying a structure exists on the date of the enactment or amendment of this Code, but would not be allowed under the terms of this Code, such a use may lawfully continue, subject to the following provisions:

(A) **Maintenance and Rebuilding.** Any structure housing a nonconforming use may be maintained through ordinary repairs and/or may be replaced or rebuilt as long as the nonconforming use is authorized herein. Said repairs or replacements should be completed within **twelve (12) months** of authorization of destruction or improvement.

(B) **Change of Use.** A nonconforming use occupying a structure shall not be changed except to a use permitted under the applicable district regulations.

(C) **Discontinuance of Use.** When a nonconforming use of a structure, or of a structure and premises in combination, is voluntarily discontinued for **twelve (12)** consecutive months or for **eighteen (18) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-6-7 **NONCONFORMING USE OF LAND.** Any lawful use of land existing on the date of the adoption or amendment of this Code that would not be permitted under the terms of this Code may lawfully continue, subject to the following provisions:

(A) **Relocation.** No nonconforming use of land shall be moved, in whole or in part, unless upon relocation such use will conform to all pertinent regulations of the district in which it will be located.

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

(C) **Discontinuance.** When a nonconforming use of land is voluntarily discontinued for a period of **twelve (12)** consecutive months, it shall not thereafter be resumed, and any subsequent use of such land shall conform to the applicable district regulations. Any voluntary discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

40-6-8 **NONCONFORMITIES UNDER PERMIT AUTHORITY.** The regulations of this Article shall not apply to any change in an existing structure or to any change in the use of a structure or of land for which a permit was issued prior to the enactment of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is carried out and completed with diligence.

ARTICLE VII

SIGN CODE

40-7-1 **SIGN PERMIT REQUIRED; FEE.** Except as otherwise provided in the following sections, no outdoor advertising sign, billboard or structure shall be erected, constructed, altered, rebuilt, or relocated except as provided in this Code and until a permit for the sign has been issued by the City upon application therefore submitted in the form the City may prescribe so as to include any information as may be required by it for a complete understanding of the proposed work. This application shall be accompanied by a fee according to the permit fee schedule included in **Section 40-9-5.**

40-7-2 **EXEMPTIONS.** No person will be required under this Code for the following signs:

(A) A wall or window sign not exceeding **six (6) square feet** of display surface.

(B) A sign not exceeding **three (3) square feet** of display surface on a residence building stating merely the name and profession of an occupant.

(C) A ground sign advertising either the sale or rental of the premises upon which it is maintained when the sign does not exceed **twenty-five (25) square feet** of display surface.

(D) Street, warning, and other official or non-advertising signs erected by any government or by others where required by or pursuant to legal authority.

(E) The exemptions permitted by this Section shall apply only to the requirement of a permit and shall not be construed as relieving the owner of the sign from responsibility for its erection and maintenance in a good and safe condition.

40-7-3 **EXAMINATION OF PLANS; ISSUANCE.** The Zoning Administrator, upon the filing of an application for a Temporary Certificate of Zoning Compliance as required by **Section 40-9-4**, shall examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure. Applicant must provide additional information on any sign at the request of the Zoning Administrator to show wind loads, calculations, etc.

40-7-4 **WHEN PERMIT BECOMES NULL AND VOID.** If the work authorized under a Temporary Certificate of Zoning Compliance as required by **Section 40-9-4** has not been completed within **six (6) months** after the date of issuance, the permit shall become null and void.

40-7-5 PAINTING REQUIREMENTS GENERALLY. The owner of any sign as defined and regulated by this Code shall be required to have the sign properly painted, at least once every **two (2) years**, including all parts and supports of the sign, unless the parts and supports are galvanized or otherwise treated to prevent rust.

40-7-6 PERMIT NUMBER, DATE OF ERECTION, AND VOLTAGE TO BE PAINTED ON SIGNS. Every sign or other advertising structure, when erected, shall have painted in a conspicuous place thereon, in letters not less than **one (1) inch** in height, the date of erection, the permit number, and the voltage of any electrical apparatus used in connection therewith.

40-7-7 REMOVAL OF CERTAIN SIGNS. Any sign which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which the sign may be found, within **ten (10) days** after written notification from the City, and upon failure to comply with the notice within the time specified in the order, the City is hereby authorized to cause removal of the sign, and any expense incident thereto shall be paid by the owner of the building or structure to which the sign is attached.

40-7-8 UNSAFE AND UNLAWFUL SIGNS. If the City shall find that any sign or other advertising structure regulated by this Code is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this Code, he shall give written notice to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards set forth in this Code within **ten (10) days** after the notice, the sign or other advertising structure may be removed or altered to comply with this Code by the City at the expense of the permittee or owner of the property upon which it is located. The City shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The City may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

40-7-9 NOT TO OBSTRUCT FIRE ESCAPES. No outdoor advertising sign shall be erected, constructed, or maintained so as to obstruct any fire escape, or any window or door or opening used as a means of egress or for fire-fighting purposes, or so as to prevent free passage from one part of a roof to another part thereof. No sign shall be attached in any form, shape, or manner to a fire escape nor be so placed as to interfere with an opening required for legal ventilation.

40-7-10 **TO BE MARKED WITH ERECTOR'S NAME.** Every outdoor advertising sign erected under the provisions of this Code shall be plainly marked with the name of the person erecting the sign.

40-7-11 **LOADS AND ALLOWABLE STRESSES.**

(A) Ground signs shall be designed and constructed to withstand wind pressure of not less than **twenty-five (25) pounds** per square foot of exposed area, but all other signs must be designed and constructed to withstand wind pressure of not less than **fifty (50) pounds** per square foot of exposed area.

(B) Allowable stresses and materials shall conform to the latest approved specifications of the American Standard Building Code Requirements for Structural Steel, approved by the American Standards Association, and the National Design Specification for Stress Grade Lumber and its Fastenings, recommended by the National Lumber Manufacturers Association. The working stress of chains, wire ropes, and steel guy rods and their fastenings shall not exceed **one-fourth (1/4)** of their ultimate strength.

40-7-12 **GROUND SIGNS.**

(A) No ground sign for which a permit is required shall be erected to a height of more than **twelve (12) feet** above the ground unless the face is constructed of sheet metal or other noncombustible facing materials.

(B) The bottom of the facing of every ground sign shall be at least **thirty (30) inches** above the ground, which space may be filled with platform or decorative trim of light wood or metal construction.

(C) Ground signs shall be adequately supported to resist dead load and the wind load specified in **Section 40-7-11** acting in any direction on the sign.

(D) Ground signs which do not exceed **twenty-five (25) feet** in height may have supports which consist only of vertical posts driven into or set in the soil, or which consist only of vertical posts rigidly attached to bases embedded in the soil. There shall be **two (2)** or more vertical posts spaced not to exceed a distance equal to **one-half (1/2)** the height of the sign above the ground, except that a sign which does not exceed **fifty (50) square feet** in any area may be supported by a single post.

(E) The posts, or bases for rigidly attached posts, supporting unbraced ground signs shall be so proportioned that the bearing loads imposed upon the soil in either a horizontal or vertical direction shall not exceed safe values. Braced ground signs shall be anchored to resist the specified wind load acting in any direction. Anchors and support shall be designed for safe bearing loads on the soil and for an effective resistance to pull out amounting to a force **twenty-five percent (25%)** greater than the required resistance to overturning.

(F) The soil used for backfill for the dug-in type of anchor or post support shall be carefully placed and thoroughly compacted. The anchors and supports shall penetrate to a depth below ground greater than that of the frost line.

(G) Portable signs supported by frames or posts rigidly attached to bases shall be so proportioned that the weight and size of the base is adequate to resist the wind pressure specified in **Section 40-7-11**. The sign shall not exceed **six (6) feet** in height.

(H) Whenever anchors or supports consist of wood embedded in the soil, the wood shall be treated under pressure with creosote or other approved preservation before erection. This requirement shall not apply to temporary signs which will not remain in place for more than **six (6) months**.

(I) The owner of a lot upon which there is a ground sign or the person occupying the lot or both are hereby required to keep the lot and the ground sign clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions.

40-7-13 ROOF SIGNS.

(A) Every roof sign shall be constructed entirely of fire-resistive materials, including the uprights, supports, and braces, except that the ornamental molding, battens, cappings, and nailing strips, platforms, and the decorative trimmings may be constructed of combustible materials.

(B) No roof sign shall project beyond the exterior wall, but if illuminated, lighting reflectors may project beyond the face of the wall.

(C) Roof signs shall be so constructed as to leave a clear space, except for the structure supporting the sign, of not less than **four (4) feet** between the roof and the lowest part of the sign.

(D) Roof signs shall be thoroughly secured and anchored to the building over which they are constructed and erected. The dead and wind loads from the signs shall be distributed to the structural elements of the building in a manner that no element shall be over stressed.

(E) Uplift due to overturning of roof signs shall be adequately resisted by proper anchorage to the building walls or structure, or by sufficient concrete counterweights to resist uplift. Proper anchorage to the building walls or structure shall include alterations to the building as may be needed to integrate and adequately interconnect sufficient dead load to equal not less than **ten percent (10%)** in excess of the computed uplift applied to the building by the sign. Where uplift is resisted by counterweights, their weight shall exceed the amount of the uplift by **ten percent (10%)**.

40-7-14 WALL SIGNS. Wall signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached to the walls by means of metal anchors, bolts, or expansion screws of not less than **three-eighths (3/8) inch** in diameter which shall be embedded at least **five (5) inches**. No wooden blocks or anchorage with wood used in connection with screws or nails shall be considered proper

anchorage, except in the case of wall signs attached to buildings with walls of wood. No wall sign shall be entirely supported by an unbraced parapet wall. Painted advertising shall be considered a wall sign and shall require a permit.

40-7-15 PROJECTING SIGNS.

(A) Signs shall in no case project from a building or structure to any point within **two (2) feet** of a line drawn perpendicularly upward from the curb line. No projecting sign shall at the lowest point be less than **nine (9) feet** above the sidewalk or the ground level. All projecting signs for which a permit is required shall be constructed entirely of fire-resistive materials approved by the City for this purpose.

(B) Projecting signs shall be securely attached to a building or structure by metal bolts, anchors, supports, chains, wire ropes, or steel rods. No staples or nails shall be used to secure any projecting sign to any building or structure.

(C) The dead load of projecting signs, not parallel to the building or structure, and the load due to wind pressure shall be supported by structural shapes, chains, wire ropes, or steel guy rods. These supports shall be erected and maintained preferably at an angle of **forty-five (45) degrees** or more with the face of the sign in an approximately horizontal plane to resist wind pressure. The lateral supports shall be spaced not more than **eight (8) feet** apart and shall be secured to a bolt or expansion screw capable of developing the strength of the supporting chain, wire, rope or steel guy rod. The expansive device and details of the anchorage shall be subject to the approval of the City. Turn buckles or other approved means of adjustment shall be placed in all chains, wire ropes, or steel guy rods supporting or bracing projecting signs.

(D) Chains, wire ropes, or steel guy rods used to support the dead or wind load of projecting signs may be fastened to solid masonry walls with expansion bolts or other devices approved by the City, but no support shall be attached to an unbraced parapet wall. Where the supports must be fastened to walls made of wood, the supporting device must be fastened securely in a manner approved by the City.

(E) All metal supports and braces for projecting signs shall be galvanized or of corrosive-resistant material or painted at least once annually.

40-7-16 MARQUEE SIGNS. Fire-resistant marquee signs may be attached to or hung from a marquee. When attached to or hung from a marquee, the sign shall be at least **nine (9) feet** at its lowest level above the sidewalk or ground level. No sign shall extend outside the vertical lines of the marquee. All marquee signs shall have a 14 watt per bulb limit.

40-7-17 ALLOWABLE SIZES AND LOCATIONS. Signs requiring a permit per **Section 40-7-1** shall only be erected in the following approved Districts and be subject to the following size restrictions.

Zoning Code 40-9-3

- (A) Maximum **twelve (12) square feet** per side in the Single Family Residential Districts, S-1 and S-2.
- (B) Maximum **thirty-two (32) square feet** per side in the Neighborhood Commercial District, C-1.
- (C) Maximum **one hundred (100) square feet** per side in the General Commercial and Industrial Districts, C-2 and I.

ARTICLE VIII – ADULT BUSINESS

DEFINITIONS. See Section 40-2-2.

40-8-1 SPECIAL USE PERMIT REQUIRED.

(A) No adult business may operate within the City without first having obtained a special use permit. A separate special use permit must be acquired for each adult business. Adult businesses include but are not limited to adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, adults-only massage parlors, rap parlors, or adults-only saunas. It shall likewise be unlawful for any such business to sell or offer for sale any adults-only items in violation of the terms and conditions of such special use permits.

(B) A special use permit issued by the City is required for and with respect to any building location and premises, within the City, at or upon which an adult business is to be operated.

(C) All special use permit procedures and criteria are as noted in the City Zoning Code.

(D) No special use permit shall be held in existence by the mere payment of fees.

40-8-2 LOCATION RESTRICTIONS.

(A) The use of property for an adult business can have potentially harmful secondary effects on the surrounding areas, and may have a deleterious effect upon the use and enjoyment of adjoining properties.

(B) Such secondary effects can include, but not be limited to, a tendency to attract an undesirable quantity and quality of transients, to affect property values adversely, to cause an increase in crime, especially prostitution, to contribute to the blighting or down-grading of the surrounding neighborhood/area, and to encourage residents and businesses to move elsewhere.

(C) As such, all adult businesses must comply with the following location restrictions:

- (1) All adult businesses shall be located within C-2 and I Districts.
- (2) No adult business shall be located within **one thousand (1,000) feet** (excluding streets, alleys and public ways) of another adult business. Said distance shall be measured from property line to property line.
- (3) No adult business shall be located within **two hundred fifty (250) feet** of any residential zone, single- or multiple-family dwelling, church, school, licensed day care facility, or park. Said distance shall be measured from the building or structure itself within which the business is located.

40-8-3 PROHIBITED CONDUCT. The operator of any adult business shall neither participate in nor suffer or permit any of the following prohibited acts to occur on the premises:

(A) Sexual conduct, including but not limited to any demonstration, dance, performance, or exhibition on the licensed premises by any employee, agent, entertainer, or patron, where said person engages in any of the following conduct:

- (1) Exposure of the genitals, pubic hair, perineum, anal or pubic region; or
- (2) Exposure of any device, costume or covering which gives the appearance of or simulates the genitalia, pubic hair, buttocks, perineum, anal or pubic region; or
- (3) Performance or simulated performance of ultimate sexual acts or explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise) bestiality or sadomasochistic activity; or
- (4) Fondling of his or her own genitals or the genitalia of another person.

(B) Employment or use of the services of any person in or upon the premises of the adult business while such person is unclothed or in such attire, costume or clothing so as to result in conduct prohibited in subsection (A) above.

(C) Admission of any underage patron into or upon the premises of the adult business.

(D) Patronage, frequenting or loitering of any underage person in any adult business.

(E) Allowance of any underage person to view, accept or otherwise possess any adults-only item on the licensed premises.

(F) Employment or use of the services of any underage person in or upon the premises of the adult business.

(G) Drunkenness, fighting, unlawful games, riotous or disorderly conduct whatsoever, in any premises kept or occupied as an adult business.

(H) Allowing or permitting the sale, distribution, delivery, or consumption of any controlled substance or illegal drug or narcotic on the premises.

40-8-4 SALES PRACTICE VIOLATIONS.

(A) No operator, agent, or employee shall knowingly sell, deliver or provide, offer or agree to sell, deliver or provide any obscene writing, picture, record, or other representation or embodiment of the obscene. **(720 ILCS 5/11-20)**

(B) No operator, agent, or employee shall sell, deliver or provide, offer or agree to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene after recklessly failing to exercise reasonable inspection, which would have disclosed the nature or content thereof. **(720 ILCS 5/22-20)**

(C) No operator, agent, or employee shall create, buy, procure, or possess obscene matter or material with intent to disseminate it in violation of this Article or State statute. **(720 ILCS 5/22-20)**

(D) No operator, agent, or employee shall advertise or otherwise promote the sale of materials represented or held out by him to be obscene, whether or not it is obscene. **(720 ILCS 5/22-20)**

(E) No operator, agent, or employee shall knowingly sell, deliver, provide, or offer to sell, deliver, or provide any child pornography as defined by State statute. **(720 ILCS 5/22-20)**

(F) No operator, agent, or employee shall create, buy, procure, or possess any child pornography with intent to disseminate it in violation of this Article or State statute. **(720 ILCS 5/22-20)**

(G) No operator, agent, or employee shall advertise or otherwise promote the sale of material represented or held out by him to be child pornography, whether or not it is child pornography. **(720 ILCS 5/22-20)**

(H) If an operator, agent, or employee believes or has reason to believe that a sale, delivery, or viewing of any adults-only item is prohibited because the prospective recipient is underage, said operator, agent, or employee shall, (before making or allowing such sale, gift, delivery, or viewing), demand presentation of some form of positive identification containing proof of age, issued by a public officer in the performance of his official duties.

(I) An operator, agent, or employee may refuse to sell, deliver, or allow any person to view any adults-only item, where said persons is unable to produce adequate written evidence of identity and age by production of a document issued by the Federal, State, or County government, or subdivision or agent thereof, including, but not limited to, the following documents:

- (1) A motor vehicle operator's license;
- (2) A registration certificate issued under the Federal Selective Act; or
- (3) An identification card issued to a member of the armed forces.

(J) Proof that the operator, employee, or agent demanded, examined, and reasonably relied upon such written evidence listed in subsection (I) above in any transaction forbidden by this Article is competent evidence that may be offered as an affirmative defense to a violation of this Article.

In order to reasonably rely upon written evidence regarding a patron's identity and age, an operator, agent, or employee shall use the prudent judgment of a reasonable and informed person, and shall scrutinize said written evidence of age and identity by doing the following:

- (1) Determine if the physical description and photograph (if any) on the document presented matches that of the presenting person;
- (2) Determine whether the plastic seal on the identification card is intact or broken; and

- (3) In the case of an Illinois driver's license, determine whether the seventh and eighth digits in the driver's license number (excluding the beginning initial) match the stated date of birth located elsewhere on the driver's license.

If from the foregoing a reasonable person would or should doubt the authenticity of the identification card, then the person offering the identification must not be sold, delivered, or allowed to view any adults-only items.

(K) No operator, agent, or employee shall give away or otherwise make available any adults-only item or viewing of any adults-only item for the purpose of evading any provision of this Article when the sale or viewing of said adults-only item is prohibited shall constitute unlawful selling.

(L) Offers or agreements to sell, deliver, provide, or allow the viewing of any adult-only item at or within any premises when the sale or viewing of said adults-only item is prohibited shall constitute unlawful selling.

(M) The use of any other shift or device to evade any provision of this Article is prohibited and shall constitute unlawful selling.

40-8-5 HOURS OF OPERATION. The unlimited operation of an adult business can, by reason of its intended use, facilitate secondary effects including, but limited to: prostitution, disorderly conduct, performance of sexual acts or conduct in public, traffic congestion, and parking problems. Insofar as the City has a substantial government interest in preserving character and preventing deterioration of its neighborhoods, the following limitations on operation times have been propounded:

(A) Live adult entertainment (performances) shall only allowed during the hours of **9:00 P.M. to 2:00 A.M.** the following day. No operator, employee, or agent of an adult business shall allow any type of "live adult entertainment" during any other times. The time referred to be either Central Standard Time or Central Daylight Savings Time, whichever is in effect at the time in the City of Carlinville, Illinois.

40-8-6 SIGNS AND/OR EXTERIOR DISPLAY. The unregulated use of signs can result in secondary effects that create dangers to the public in periods of high winds or inclement weather, defeat the sign's informational or advertising functions as competitors escalate sign size and expense to attract patrons, reduce the ability of the public to interpret the intended message safely and quickly, and to destroy the aesthetic quality of the community. Insofar as the City has a substantial government interest in these matters, all signs advertising or promoting the sale of adults-only items must meet the following restrictions:

(A) All signs must be flat wall signs.

(B) The amount of allowable sign area shall be stated in the Sign Regulations **Section 40-7-17.**

(C) No merchandise or depictions of adults-only items shall be displayed in window areas or any other area that may be viewed from a public street, alley, public way, or sidewalk located in front of the building.

(D) A **one (1) square foot** sign may be placed on the door to state the hours of the operation and adults-only admittance.

(E) All provisions of the Sign Regulations section of the City's Zoning Code shall control, except as clearly contradicted by this Section. In the event that the provisions conflict, this Section shall prevail.

No adult entertainment establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas from any sidewalks, public or private right-of-way or any property other than the lot on which the licensed premises is located. No portion of the exterior of an adult entertainment establishment shall utilize or contain any flashing lights, search lights or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed in this Article. This Section shall apply to any advertisement, display, promotional material, decoration or sign to any performance or show, and to any window, door, or other opening.

40-8-7 PUBLIC HEALTH STANDARDS.

(A) All premises operated as an adult business shall be kept in clean and sanitary condition and shall be kept in full compliance with regulations issued by the County Health Department or the Illinois Department of Public Health.

(B) Any adult business shall keep and maintain the premises equipped with running hot and cold water, shall provide separate and adequate toilet facilities for both males and females if they are open to the public, and shall comply with all health, sanitary, zoning, and inspection requirements of the Macoupin County Health Code and the State of Illinois.

40-8-8 VICARIOUS LIABILITY.

(A) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article, by any employee or agent of any operator, shall be deemed and held to be the act of said operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator.

(B) Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Article, by any employee or agent of any operator, shall be deemed and held to be the act of said operator if such act or omission occurs as a result of the operator's negligent failure to supervise the conduct of the employee or agent.

(C) Such an offense shall be punishable in the same manner as if said act or omission had been done or omitted by the operator personally.

40-8-9 PENALTY.

(A) In the event that an operator, agent or employee of an adult business is guilty of violating any provision of this Division, said person may be subject to a fine not to exceed **Seven Hundred Fifty Dollars (\$750.00)** per violation.

(B) Any person violating the provisions of this Division shall be subject to an offense for each and every day on which such violation continues, and each day that the offense continues shall be regarded as constituting a separate offense.

(C) Any prosecution for violation of this Division does not prohibit the City from pursuing injunctive relief or the State's Attorney's Office from pursuing criminal charges.

ARTICLE IX

ADMINISTRATION AND ENFORCEMENT

40-9-1 **ZONING ADMINISTRATOR.** The office of Zoning Administrator of this Municipality, whether it be part-time or full-time, is hereby established. The Zoning Administrator shall be the executive head of this office.

40-9-2 **DUTIES.** The Zoning Administrator is hereby authorized and directed to diligently administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) To review applications pertaining to land, structures, and the use of land and/or structures;
- (B) To issue or deny temporary and permanent certificates of zoning compliance;
- (C) To supervise inspections of land, structures, and the uses of land and/or structures to determine compliance with this Code, and where there are violations, to initiate appropriate action to secure compliance;
- (D) To receive, file, and forward to the Planning Commission all applications for variances and appeals;
- (E) To receive and file all applications for amendments and special use permits;
- (F) To maintain up-to-date records of this Code including, but not limited to, district maps, certificates of zoning compliance, special-use permits, variances, interpretative decisions of the Planning Commission, amendments, and all applications related to any of these matters;
- (G) To periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the City Council at least once each year;
- (H) To cause copies of this Code (including the district map) and any amendments thereto to be printed from time to time, as necessary; and
- (I) To provide information to the general public on topics related to this Code.
- (J) To receive information from the police regarding potential Zoning violations, and to act on such information to secure the necessary permits. **(Ord. No. 1564; 01-21-08)**
- (K) To act as the contact person and liaison between outside agencies, organizations, businesses and interested individuals and City officials for Economic Development and Planning purposes as directed by the Finance Committee. **(Ord. No. 1586; 03-16-09)**

40-9-3 **TEMPORARY CERTIFICATES OF ZONING COMPLIANCE.** After the effective date of this 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 temporary certificate of zoning compliance has been issued. The Zoning Administrator shall issue no temporary certificate of zoning compliance unless he determines that, when the (proposed) work is completed, the use and/or structure will conform to the applicable provisions of this Code. In addition to the

construction of those uses listed in **Schedule 40-3-19**, the following projects require the acquisition of temporary certificate of zoning compliance. This list includes, but is not limited to: new construction; structure alterations; mobile home and modular home installation; sign installation; fence installation; deck, patio, porch and stoop construction; garage and carport construction; siding installation; playhouse construction; kennel and stable construction; roof construction; shed and storage unit construction; pool installation; and vending machine installation. All applicable state codes and regulations will be followed in the construction of all permitted projects. Once the applicable Temporary Certificate of Zoning Compliance permit has been issued, the permit must be prominently displayed as directed by the City in the front yard, **ten (10) feet** from the property line, on the provided board or in a front-facing window, visible from the street. A fee will be assessed if the permit is not properly posted and then returned to the Zoning office when the project is complete. **(Ord. No. 1586; 03-16-09)**

40-9-4 INFORMATION REQUIRED. Every applicant for a **Temporary Certificate of Zoning Compliance** shall submit to the Zoning Administrator, in narrative or graphic form, all of the following items of information as required by the Zoning Administrator.

[NOTE: As used below, the term "proposed" refers to "altered," "enlarged," or "extended" as well as "completely new".]

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

40-9-5 FEE, DURATION OF CERTIFICATE. Every applicant for a **Temporary Certificate of Zoning Compliance** shall pay a filing fee in accordance with the permit fee schedule below. **Temporary Certificates of Zoning Compliance** shall be valid for **one (1) year**. The Zoning Administrator may renew such temporary certificates for successive **one (1) year** periods upon request in writing for an additional fee per the permit fee schedule.

PERMIT FEE SCHEDULE

<u>Type of Permit</u>	<u>Cost</u>
Fence/Window or Door Size Alterations/Roof	\$20.00
Porch/Deck/Patio/Shed/Playhouse (max 150 sq. ft.)	\$30.00
Garage/Carport	\$50.00
Residential New Construction	\$100.00
Residential Addition	\$50.00
Neighborhood Commercial New Construction	\$150.00
Neighborhood Commercial Addition	\$75.00
General Commercial New Construction	\$250.00
General Commercial Addition	\$125.00
Mobile Homes and Mobile Home Parks	\$50.00 each
Pools-Permanent with Fence	\$50.00
Public Hearing	\$50.00 plus cost of publication
Signs	\$10.00 per face for 16 sf or under \$25.00 per face for 17 to 99 sf \$100.00 per face for over 99 sf
Special Use Permit	\$50.00 plus cost of publication
Variance (if denied)	Refund of permit fee minus \$20.00
Vending Machine	\$25.00 annual
Reapply For Projects +1 yr (construction started)	\$20.00 minimum or half original fee
Reapply For Projects +1 yr (no construction started)	Same fee as original application
Fee for not posting permit or not returning permit and board after project is complete	\$20.00
Failure to obtain necessary permit before beginning project	4 (four) times Permit Fee for project

(Ord. No. 1473; 08-04-08)

40-9-6 PERMANENT CERTIFICATES OF ZONING COMPLIANCE. No lot or structure or part thereof that has been created, developed, erected, enlarged, altered, relocated, or reconstructed after the effective date of this Code shall be used or occupied until a **Permanent Certificate of Zoning Compliance** has been issued. The Zoning Administrator shall issue no **Permanent Certificate of Zoning Compliance** unless he determines, by inspection, that:

(A) The development or construction of such lot or structure has been completed in accordance with plans approved at the time the **Temporary Certificate of Zoning Compliance** was issued; and

(B) The lot or structure as completed, and the proposed use thereof, conforms to all applicable provisions of this Code.

Permanent Certificates of Zoning Compliance shall be issued free of charge. Failure to obtain a **Permanent Certificate of Zoning Compliance** shall constitute a violation of this Code.

40-9-7 PROCEDURES FOR VIOLATION. Whenever the Zoning Administrator determines, by inspection or by other means, that reasonable grounds exist

for believing that any lot, structure, or use is in violation of this Code, he shall so notify the responsible party in writing, and shall institute appropriate measures to secure compliance.

40-9-8 CORRECTIVE ACTION ORDER. To secure compliance with this Code, the Zoning Administrator may issue a corrective action order. Such order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is served upon such party personally, sent by registered mail to his last known address, or posted in a conspicuous place on or about the affected premises. Corrective action orders shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement of what constitutes the violation;
- (C) An outline of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) The date by which any appeal of the correction order must be filed, and a statement of the procedure for so filing;
- (F) A statement that failure to abide by a corrective action order constitutes a separate violation of this Code; and
- (G) A statement of the penalties attached to any violation of this Code.

40-9-9 STOP WORK ORDER. Whenever any land, structure, or use is being developed, erected, or established contrary to plans approved at the time the **Temporary Certificate of Zoning Compliance** was issued, the Zoning Administrator may order that such work be stopped immediately. The Zoning Administrator stop-work order may be served on any person engaged in or responsible for such work, or may be posted in a conspicuous place on or about the affected premises. Failure to abide by a stop-work order shall be deemed a separate violation of this Code.

40-9-10 EMERGENCY MEASURES. Notwithstanding any other provisions of this Code, whenever the Zoning Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition. The Zoning Administrator shall take no such action until he has consulted with the City Attorney.

40-9-11 COMPLAINTS. Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Zoning Administrator. The Zoning Administrator shall record such complaints, immediately investigate, and if necessary, institute appropriate corrective measures.

40-9-12 PENALTIES FOR VIOLATION.

(A) Failure to comply with any provision of this Code shall constitute a misdemeanor, and each day that such violation continues shall be considered a separate offense.

(B) Any person who is convicted of a violation of this Code may be fined up to **Five Hundred Dollars (\$500.00)**.

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

ARTICLE X

SPECIAL USES AND AMENDMENTS

40-10-1 **SPECIAL USE PERMITS.** This Code divides this Municipality into various districts and permits in each district only those uses which are clearly compatible with one another. Certain other uses, because of their special operation or physical characteristics, may or may not have a detrimental impact on nearby permitted use, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review and may be allowed only by a favorable majority vote of all aldermen then holding office after a hearing conducted by the Planning Commission as provided herein. In the event any proposed special use fails to receive the approval of the Planning Commission after the hearing, then the proposed special use shall not be approved by the corporate authorities except by a favorable **two-thirds (2/3) vote** of all aldermen then holding office.

40-10-2 **APPLICANT.** Every applicant for a special use permit shall submit to the Zoning Administrator, in narrative or graphic form, any or all of the items of information enumerated in **Section 40-9-4** that he may require. When the application is complete, the Zoning Administrator shall forward it, together with his recommendation, to the Planning Commission for further consideration.

40-10-3 **HEARING.** The Planning Commission shall hold a public hearing on any application for a special use permit not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-10-4 **NOTICE.** Notice of the public hearing shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing by publication in a newspaper published within the Municipality and by first class mail to the applicant for the variance. The notice to be published shall indicate the time, date and place of the hearing and the location of the property and the nature of the proposed variance.

40-10-5 **FACTORS CONSIDERED.** In making their decision the Planning Commission shall consider the following factors:

- (A) Whether the proposed design, location, and manner of operation of the proposed special use is protective of the public health, safety and welfare;
- (B) The effect the proposal would have on the value of neighboring property;

- (C) The effect the proposal would have on this Municipality's overall tax base;
- (D) The effect the proposal would have on public utilities and on traffic circulation on nearby streets; and
- (E) Whether there are any facilities nearby that require special protection.

40-10-6 RECOMMENDATION BY PLANNING COMMISSION, STANDARDS. After the holding of a hearing as provided herein, the Planning Commission shall make a recommendation to the City Council to grant or to deny a proposed special use permit. Thereafter the City Council shall act on the request for a special use permit at a regularly scheduled meeting. Any proposed special use which fails to receive the approval or a favorable recommendation from the Planning Commission shall not be approved by the corporate authorities except by a favorable **two-thirds (2/3) vote** of all aldermen then holding office.

40-10-7 TEMPORARY USE PERMITS. As set forth in **Section 40-3-7**, requests for temporary use permits shall be treated in the same manner as requests for special use permits. The City Council shall issue no temporary use permit for a period longer than **one (1) year**, but may renew any such permit as they see fit.

40-10-8 AMENDMENTS. In accordance with Illinois law and the provisions of this Section, the City Council may amend the regulations imposed and the districts established in this Code. Any proposed alteration of district boundaries or proposed change in the status of any use—whether permitted, special, or prohibited—shall be treated as a proposed amendment and dealt with accordingly. Amendments may be proposed by the City Council, the Zoning Administrator, Planning Commission, or any party of interest.

40-10-9 FILING. Any proposal to amend this Code shall be filed on a prescribed form with the Zoning Administrator who shall forward it, together with his recommendation, to the Planning Commission.

40-10-10 HEARING. The Planning Commission shall hold a public hearing on every amendment proposal not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-10-11 NOTICE. Notice of the public hearing shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing by publishing a notice thereof at least once in **one (1)** or more newspapers published in the Municipality. This notice shall indicate the time, date and place of the hearing and the location and the nature of the proposed amendment.

40-10-12 ADVISORY REPORT/FINDINGS OF FACT. No later than **ten (10) days** after the public hearing the Planning Commission shall submit their advisory report/findings of fact to the City Council. The Planning Commission shall not recommend the adoption of any amendment unless they find that such amendment is in the public interest and not merely for the benefit of the party proposing it. Where the effect of a proposed amendment is to alter district boundaries or to change the status (permitted, special, or prohibited) of any use, the Planning Commission shall make findings regarding all of the following matters:

- (A) Existing uses of property in the vicinity of the property in question;
- (B) The district classification of property in the vicinity of the property in question;
- (C) The suitability of the property in question for uses already permitted under the existing district classification;
- (D) The trend of development in the vicinity of property in question, including changes (if any) which may have taken place since that property was placed in its present district classification.

40-10-13 DECISION BY CITY COUNCIL. The City Council may act on every proposed amendment at its next regularly scheduled or any other regularly scheduled meeting following submission of the Planning Commission's advisory report. Except as provided in **Section 40-10-14**, the City Council, without further public hearing, may vote upon any proposed amendment or may refer it back to the Planning Commission for further consideration.

40-10-14 WHEN TWO-THIRDS (2/3) VOTE IS REQUIRED. The favorable vote of **two-thirds (2/3)** of the aldermen then holding office shall be required to pass an amendment to this Code when the amendment is opposed in writing by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across any alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered as evidenced by a written protest signed by the required **twenty percent (20%)** and filed with the City Clerk.

40-10-15 NOTICE TO APPLICANT OF WRITTEN PROTEST. In cases of written opposition to an amendment of this Code as prescribed in **Section 40-10-14**, a copy of the written protest shall be served by the protester or protesters on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

ARTICLE XI

PLANNING COMMISSION AND VARIANCES

40-11-1 PLANNING COMMISSION ESTABLISHED. The Planning Commission established in **Chapter 4** of the Revised Code of Ordinances of the City of Carlinville is hereby authorized to and shall perform the following duties:

(A) to hear appeals from any zoning-related decision or order made by the Zoning Administrator;

(B) to hear upon requests for lot-size/bulk variances in accordance with the standards established in this Code; and

(C) to perform such other duties as the City Council may prescribe.

All meetings of the Planning Commission shall be held at the call of the Chairman and at such times as the Commission may determine. All Commission meetings shall be open to the public. The Commission may adopt their own rules of meeting procedures so long as they do not conflict with this Code or the applicable Illinois Statutes. The Chairman, or in his absence the Acting Chairman, may administer oath and compel the attendance of witnesses. **Four (4) members** of the Commission shall constitute a quorum and the affirmative vote of at least **four (4) members** shall be necessary to authorize any Commission actions.

The Commission shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or decision of the Commission shall be filed immediately in the City Clerk's office and shall be a public record.

40-11-2 APPEALS. Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Planning Commission on a prescribed form. Every such appeal shall be made and treated in accordance with Illinois law and the provisions of this Section.

40-11-3 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Zoning Administrator and the Commission a written notice specifying the grounds for appeal. Not more than **five (5) working days** after the notice of appeal has been filed, the Zoning Administrator shall transmit to the Commission all records pertinent to the case.

40-11-4 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Zoning Administrator certifies to the

Commission, after the notice of appeal has been filed with him, that for reasons stated in the certificate a stay would cause imminent peril to life or property. In such case, further action shall not be stayed unless the Commission or the Circuit Court grants a restraining order for due cause, and so notifies the Zoning Administrator.

40-11-5 HEARING. The Commission shall hold a public hearing on every appeal not later than **sixty (60) days** after the filing of the appeal notice. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-11-6 NOTICE. Notice of the hearing shall be given not more than **thirty (30) days** nor less than **fifteen (15) days** before the hearing:

(A) By first class mail to the person making the appeal and to the last known owner or owners of property adjoining the premises in question; and

(B) By publication in a newspaper published within this Municipality.

This notice shall indicate the time, date and place of the hearing, the location of the property and the nature of the issue involved.

40-11-7 DECISION BY THE PLANNING COMMISSION. The Commission shall be required to decide all appeals within **thirty (30) days** after the final hearing thereon. A certified copy of the Commission's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Commission.

40-11-8 LOT SIZE/BULK VARIANCE. A "lot size/bulk variance" means a relaxation of the strict application of the lot and/or bulk requirements applicable to a particular lot or structure.

40-11-9 APPLICATION. Every application for a lot size/bulk variance shall be filed with the Zoning Administrator on a prescribed form. The application shall contain sufficient information to allow the Commission to make an informed decision.

40-11-10 HEARING. The Commission shall hold a public hearing on any variance application not later than **sixty (60) days** after its filing. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney.

40-11-11 NOTICE. Notice of the public hearing shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing;

(A) By first class mail to the applicant and to every owner of property adjacent to the premises for which the variance is requested; and

(B) By publication in a newspaper published within this Municipality.

The notice shall indicate the time, date and place of the hearing, the particular location for which the variance is requested, and the nature of the proposed variance.

40-11-12 STANDARDS FOR VARIANCES. The Commission shall not recommend, nor shall the City Council grant, any lot size/bulk variance unless they find that the proposed variance is consistent with the general purposes of this Code, and that the strict application of the district requirements would result in great practical difficulties or hardship to the applicant. More specifically, the Commission shall not recommend, nor shall the City Council decide upon, a variance unless they determine, based upon the evidence presented to them, that:

(A) The property in question cannot yield a reasonable return if the district regulations are strictly applied; and

(B) The plight of the applicant is due to peculiar circumstances not of his own making; and

(C) The variance, if granted, will not be detrimental to the public health, safety, and welfare.

40-11-13 RECOMMENDATION BY PLANNING COMMISSION. After the holding of a hearing as provided herein the Planning Commission shall make a recommendation to the City Council to grant or to deny a proposed variance. Thereafter the corporate authorities at a regularly scheduled City Council meeting may act on any proposed variation or may refer it back to the Planning Commission for further consideration. Any proposed variation which fails to receive the recommendation of the Planning Commission shall not be passed by the corporate authorities except by the favorable vote of **two-thirds (2/3)** of all aldermen of the Municipality. A certified copy of the City Council's decision shall be transmitted to the applicant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him and he shall be required to incorporate the terms and conditions of the same in the Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Commission. The City Council shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Council's reasons for granting or denying any requested variance.

40-11-14 UNAUTHORIZED VARIANCES (USE VARIANCE). Under no circumstances shall the Planning Commission grant a variance to allow any use that is specifically or by implication prohibited in the district involved. A "use variance" constitutes an amendment to this Code and may be obtained only in the manner set forth in **Section 40-10-8**. Any previously approved "use variance" shall become void upon the discontinuance of the use.

40-11-15 FILING FEES. By resolution, the City Council shall establish (and may periodically amend) a schedule of filing fees for the various permits and procedures listed in this Code. Said fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or revenue-raising device. All such fees shall be paid by the applicant to the City and are non-refundable. A current schedule of filing fees shall be maintained in the Zoning Administrator's office and on file with the City Clerk.

(Ord. No. 1524; 04-03-06)