

# TITLE 16: UNIFIED DEVELOPMENT ORDINANCE

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## CHAPTER 16.04: TITLE, PURPOSE, AND APPLICABILITY

### Section

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#### § 16.04.010 TITLE.

This Ordinance and the official Zoning District Maps, are known and may be cited and referred to as the "McHenry County Unified Development Ordinance," "Unified Development Ordinance" or "Ordinance."

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.04.020 PURPOSE.

Pursuant to the Counties Code (55 ILCS 5/5-12001 *et seq.*), as amended, the purpose of the Unified Development Ordinance is:

- A. To promote the public health, safety, morals, and welfare.
- B. To conserve the values of property throughout the County.
- C. To lessen or avoid the congestion in the public streets and highways.
- D. To lessen or avoid the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters.
- E. To preserve and maintain the unique and irreplaceable natural resources within McHenry County and the environmental benefits of open space, clean air, clean water (rivers, streams, lakes, and wetlands), groundwater recharge, and wildlife preservation.
- F. To direct the timely and orderly development of McHenry County.
- G. To preserve and maintain the unique and irreplaceable historic buildings and resources of McHenry County.
- H. To implement the policies of the *McHenry County 2030 Comprehensive Plan*.
- I. To implement the policies of the *McHenry County Water Resources Action Plan*.
- J. To implement the policies of the *McHenry County Green Infrastructure Plan*.
- K. To implement the policies of watershed plans that have been accepted or adopted by the County Board.
- L. To implement the policies of the *McHenry County 2040 Long Range Transportation Plan*.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.04.030 APPLICABILITY.

A. *Territorial Application.* All land within the corporate limits of the County of McHenry, Illinois, excluding land lying within incorporated municipalities that have adopted a zoning ordinance, is bound by the provisions of this Ordinance.

B. *General Prohibition.* Unless otherwise provided by this Ordinance, any portion or whole of any structure or land shall be used and occupied, and any structure, in whole or in part, shall be constructed, moved, enlarged or structurally altered in conformity with the provisions of this Ordinance.

C. *Private Agreements.* This Ordinance is not intended to nullify any private agreement, easement, covenant, or restriction. However, where this Ordinance is more restrictive than a private agreement, easement, covenant, or restriction, this Ordinance controls. The County does not enforce private agreements, easements, covenants, or restrictions.

D. *Other Laws and Regulations.* Unless otherwise provided by this Ordinance, this Ordinance controls over less restrictive statutes, ordinances, or regulations to the extent permitted by law. More restrictive statutes, ordinances, or regulations control over the provisions of this Ordinance. It is the property owner's responsibility to comply with all other applicable statutes, ordinances, or regulations.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.04.040 TRANSITION RULES.**

In determining the applicability of this Ordinance, with respect to the previously applicable zoning regulations, the following rules apply.

A. *Existing Unlawful Structures and Uses.* A structure or use that is unlawful at the time of the adoption of this Ordinance, but is made legal by the provisions of this Ordinance, is deemed lawful as of the effective date of this Ordinance. However, if such structure or use does not conform with every requirement of this Ordinance, then that structure or use remains unlawful.

B. *Existing Uses.*

1. If property is used in a manner that was classified as a permitted use prior to the effective date of this Ordinance, and that use is now classified as a conditional use as of the effective date of this Ordinance, it is deemed a nonconforming use. Such uses are allowed to continue and are controlled by the provisions of Chapter 16.80 (Nonconformities). However, any addition, enlargement, or expansion of the use is required to obtain a conditional use permit prior to the addition, enlargement, or expansion.

2. If property is used in a manner that was classified as a conditional use prior to the effective date of this Ordinance, and that use is now classified as a permitted use as of the effective date of this Ordinance, that use is deemed a lawful permitted use. However, any subsequent addition, enlargement, or expansion of that use is required to conform to any Ordinance requirements for such permitted use.

C. *Uses Rendered Nonconforming.* If property is used in a manner that was a lawful use prior to the effective date of this Ordinance, or if the property owner can document to the satisfaction of the Zoning Enforcement Officer that an agricultural, single- or two-family residential, or residential accessory use existed prior to March 1, 2005, regardless of if such agricultural, single- or two-family residential, or residential accessory use was lawful at the time of establishment, and this Ordinance no longer classifies that use as either a permitted or conditional use in the zoning district in which it is located, that use is deemed a legal nonconforming use and is controlled by the provisions of Chapter 16.80 (Nonconformities).

D. *Structures Rendered Nonconforming.* If an existing structure conformed to the standards of this Ordinance prior to the effective date of this Ordinance, or if the property owner can document to the satisfaction of the Zoning Enforcement Officer that an agricultural, single- or two-family residential, or residential accessory structure existed prior to March 1, 2005, regardless of if such agricultural, single- or two-family residential, or residential accessory structure conformed to standards of this Ordinance at the time of construction, and such structure does not meet all standards set forth in this Ordinance, that structure is deemed a legal nonconforming structure and is controlled by the provisions of Chapter 16.80 (Nonconformities).

E. *Previously Issued or Pending Building Permits.* If a building permit has been applied for or issued prior to the effective date of this Ordinance, the permit shall be issued and construction may occur in accordance with the permit. The structure may be nonconforming under this Ordinance.

F. *Previously Granted Conditional Use Permits and Variations.*

1. All conditional use permits and variations granted prior to the effective date of this Ordinance remain in full force and effect. The recipient of the conditional use permit or variation may proceed to develop the property in accordance with the approved plans and any applicable conditions. However, if the recipient has failed to act on the conditional use permit or variation before the approval expires, including any periods of extension granted, the provisions of this Ordinance control.

2. Subject to § 16.16.050H. (Expiration of Approved Conditional Use Permits), conditional use permits granted prior to the effective date of this Ordinance may be renewed regardless if the use is prohibited under § 16.32.060 (Zoning District Uses) and Table 16.32-1. Applications pursuant to this section may include requests for an expansion of the conditional use, or an amendment to the limiting conditions of the conditional use. Nothing in this section shall prevent the County from denying a conditional use renewal, expansion, or amendment submitted pursuant to this section.

3. If the application of the use standards of this Ordinance for the renewal application will result in an unreasonable hardship to the applicant, the use standards of this Ordinance shall not be a basis for denial. If the hardship is caused by an expansion or amendment of the conditional use being renewed, it can be denied for failure to comply with the use standards in this Ordinance.

G. *Pending Zoning Applications.* If a zoning application for a rezoning or conditional use permit has been applied for prior to the effective date of this Ordinance, the application may continue under the ordinance in effect at the time of application. The use or structure may be nonconforming under this Ordinance.

H. *Pending Subdivision Applications.* If a subdivision application has been applied for prior to the effective date of this Ordinance, the application may continue under the ordinance in effect at the time of application.

I. *Continuation of Previous Enforcement Actions.* Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the County, pursuant to previous and valid ordinances and laws.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.04.050 SEVERABILITY.**

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

B. If any court of competent jurisdiction rules invalid the application of any section, paragraph, subdivision, clause, sentence or provision of this Ordinance to a particular property, structure, or use, that ruling shall not affect the application of the ordinance provisions to any property, structure, or use not specifically included in the judgment.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.04.060 EFFECTIVE DATE.**

The effective date of this Ordinance is October 22, 2014.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.04.070 AMENDMENT AND REPEAL OF PREVIOUS ORDINANCES.**

A. The McHenry County Zoning Ordinance (O-200009-ZBA-067, 9/19/2000) is comprehensively amended, and its terms are stricken.

B. The following ordinances and any amendments thereto, are repealed:

1. McHenry County Subdivision Ordinance (R-8002-02-15, 2/19/1980).

2. McHenry County Sign Ordinance (O-200502-10-011, 2/1/2005).

3. Addendum to the McHenry County Subdivision Ordinance - Conservation Design Developments: Standards and Procedures (O-200802-10-007, 2/19/2008).

4. McHenry County Telecommunication Carriers Ordinance (O-9804-ZBA-33, 4/21/1998).
5. McHenry County Groundwater Monitoring and Protection at Earth Extraction Sites Ordinance (O-9211-2200-77, 11/24/1992).
6. McHenry County Camp Ground Ordinance (5/9/1967).
7. McHenry County Agricultural Trailer Affidavit Ordinance (O-200208-10-061, 8/20/2002).
8. McHenry County Street Addressing Resolution (R-8008-02-58, 9/19/1980).
9. Trailer Coach Park and Motel Control Law (7/9/1957).

C. The adoption of this Ordinance does not affect nor prevent any pending or future prosecution of or action to abate any existing violation of the above ordinances, if the violation is also a violation of this Ordinance.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 1.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## CHAPTER 16.08: DEFINITIONS

### Section

16.08.010 Interpretation

16.08.020 Definitions

### § 16.08.010 INTERPRETATION.

The language set forth in the text of this Ordinance is interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and future tenses, and the future tense includes the present.
- C. The words "must" and "shall" are mandatory. The term "may" is permissive.
- D. The terms "must not," "shall not" and "may not" are prohibiting.
- E. The masculine gender includes the feminine and neuter.
- F. Whenever a defined word or term appears in the text of this Ordinance, its meaning is construed as set forth in the definition. Any word appearing in parenthesis, between a word and its definition herein, is construed in the same sense as that word. Words not defined are interpreted in accordance with the definitions considered to be normal dictionary usage.
- G. If a definition contains limiting criteria and the use is inconsistent with that criteria, the use is prohibited.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 2.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.08.020 DEFINITIONS.

**ABUT.** See CONTIGUOUS.

**ACCESS.** A way or means of approach to provide physical entrance to a property.

**ACCESSIBILITY RAMP.** A ramp or similar STRUCTURE that provides wheelchair or similar access to a BUILDING.

**ACCESSORY STRUCTURE.** A STRUCTURE that is located on the same LOT or PARCEL with the PRINCIPAL BUILDING and that is incidental and subordinate to the PRINCIPAL BUILDING. Shipping containers and commercial trailers with wheels removed used for storage are ACCESSORY STRUCTURES. ANCILLARY DWELLING UNITS are not ACCESSORY STRUCTURES. STRUCTURES that are used for AGRICULTURE purposes are not ACCESSORY STRUCTURES.

**ACCESSORY STRUCTURE, ATTACHED.** An ACCESSORY STRUCTURE or improvement that is attached directly to a PRINCIPAL BUILDING or indirectly by means of another ATTACHED ACCESSORY STRUCTURE, such as a deck or patio. ATTACHED ACCESSORY STRUCTURES are designed or primarily used for leisure and, depending on the arrangement of the property, may include a DECK, outdoor fireplace, GAZEBO, pergola, pool/hot tub, PATIO, unenclosed PORCH, or STOOP. SHEDS, enclosed PORCHES and detached GARAGES are not ATTACHED ACCESSORY STRUCTURES.

**ACCESSORY USE.** A use that is located on the same LOT or PARCEL as a PRINCIPAL USE and that is incidental and subordinate to the PRINCIPAL USE of the LOT or PARCEL. USES that constitute an AGRICULTURE purpose are not ACCESSORY USES.

**ACOUSTICAL SHIELDING.** A man-made device or natural plantings which are used to absorb sound, such as FENCES, shrubbery, and BERMS.

**ADDITION/ENLARGEMENT.** Any construction that increases the size of a STRUCTURE in terms of site coverage, height, length, width, or floor area. Conversions of attic, BASEMENT, or an attached GARAGE to livable area are not considered ADDITIONS or ENLARGEMENTS.

**ADMISSION FEE.** The amount charged for the privilege of attending an event or entering a premises. ADMISSION FEES include, but are not limited to, cash donations, in-kind donations, minimum purchase requirements, and parking fees.

**ADULT USE.** A BUSINESS having as a substantial or significant portion of its stock-in-trade or business activity in a USE including, but not limited to, ADULT ARCADES, ADULT BOOKSTORES OR ADULT VIDEO STORES, ADULT CABARETS, ADULT ENTERTAINMENT CENTERS, ADULT HOTELS/MOTELS, ADULT MOTION PICTURE THEATERS AND ADULT MINI-MOTION PICTURE THEATERS, ADULT NIGHTCLUBS, ESCORT AGENCIES, NUDE MODELING STUDIOS, RAP PARLORS, ADULT SAUNAS and SEXUAL ENCOUNTER CENTERS where explicit SEXUAL CONDUCT is depicted and/or SEXUAL ACTIVITY is explicitly or implicitly encouraged or tolerated. ADULT USE includes the following definitions:

1. **ADULT ARCADE.** A BUSINESS where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides, computer generated graphics or other photographic reproductions which are characterized by an emphasis upon the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

2. **ADULT BOOKSTORE OR VIDEO STORE.** A BUSINESS that devotes more than fifteen percent (15%) of the total display, shelf, rack, table, stand or floor area of its stock-in-trade, books, magazines, periodicals or other printed matter, photographs, films, sculptures, motion pictures, video cassettes, slides, computer generated graphics, or other visual representations, instruments, devices or paraphernalia which are designed for use in connection with SEXUAL CONDUCT, excluding birth control devices, or adult material 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 principal emphasis on matters depicting, describing or relating to nudity, explicit SEXUAL CONDUCT, whether auto-erotic, heterosexual, homosexual or otherwise, bestiality or sadomasochistic activity. An ADULT BOOKSTORE includes BUSINESSES having ADULT-ONLY items as a substantial or significant portion of its stock and sells or displays adult-only items for sale to patrons therein.

3. **ADULT USE EMPLOYEE.** Any person who works at a BUSINESS classified as an ADULT USE, or performs or exposes his/her SPECIFIED ANATOMICAL AREAS at an ADULT USE business, irrespective of whether said person is paid a salary or wages by the owner or manager of the BUSINESS, establishment, or premises.

4. **ADULT USE EMPLOYER.** Any person who pays any form of consideration to an owner, manager or employee of an ADULT USE business, for the privilege to work at an ADULT USE business, or perform or expose his/her SPECIFIED ANATOMICAL AREAS within the BUSINESS.

5. **ADULT USE ENTERTAINER.** Any person who is an employee or independent contractor of an ADULT USE business, or any person who, without any compensation or other form of consideration, performs live entertainment for patrons of an ADULT USE business.

6. **ADULT USE, ESTABLISHMENT OF AN.** ESTABLISHMENT OF AN ADULT USE includes any of the following:

- a. The opening or commencement of any such BUSINESS as a new BUSINESS.
  - b. The conversion of an existing BUSINESS, whether or not an ADULT USE, to any of the ADULT USES defined herein.
  - c. The addition of any of the ADULT USES defined herein to any other existing ADULT USES.
  - d. The relocation of any such ADULT USE.
7. **ADULT USE HOTEL/MOTEL.** A HOTEL or MOTEL or similar BUSINESS that rents, leases or lets any sleeping room for less than a six (6) hour period, or rents, leases or lets any single room more than twice in a twenty-four (24) hour period.
8. **ADULT USE OPERATOR.** Any PERSON(S), whether said PERSON(S) be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager that conducts, maintains, or owns an ADULT USE.
9. **ADULT USE OWNER, PERMIT HOLDER OR PERMITTEE.** For the purposes of the ADULT USE definition, OWNER, PERMIT HOLDER, or PERMITTEE means any of the following:
- a. The sole proprietor of an ADULT USE.
  - b. Any general partner of a partnership that owns and operates an ADULT USE.
  - c. The owner of a controlling interest in a corporation that owns and operates an ADULT USE.
  - d. The person(s) designated by the officers of a corporation to be the permit holder for an ADULT USE owned and operated by the corporation.
10. **ADULT USE GROSS RECEIPTS.** The total amounts actually received or receivable from the sale, trade, rental, display, or presentation of services, products, adult material, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.
11. **ADULT USE PATRON.** Any person patronizing an ADULT USE business who is not employed by any operator of said establishment.
12. **ADULT CABARET.** An adult nightclub, RESTAURANT or similar BUSINESS that regularly features live performances which are characterized by the exposure of SPECIFIED ANATOMICAL AREAS or by SPECIFIED SEXUAL ACTIVITIES, or films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREA.
13. **ADULT CARD, GIFT OR NOVELTY STORE.** A BUSINESS where more than fifteen percent (15%) of its stock-in-trade items, such as cards, games, articles of clothing, computer generated graphics and novelties are distinguished or characterized by an emphasis on depicting or describing SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.
14. **ADULT ENTERTAINMENT BUSINESS (ADULT BUSINESS).** Synonymous with ADULT USE or ADULTS-ONLY business as defined herein.
15. **ADULT ENTERTAINMENT CENTER.** A BUSINESS or portion of a BUSINESS, which contains one (1) or more coin-operated mechanisms, which when activated, permit a customer to view a live person nude or in such attire, costume, or clothing as to see 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 of any admission or fee for the viewing of same activity.
16. **ADULT MOTION PICTURE THEATER.** A BUSINESS where 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, is regularly and routinely presented for viewing by patron(s). Adult mini-motion picture theaters are also included in this definition.
17. **ADULT NIGHTCLUB/BAR.** A BUSINESS that either occasionally features or is primarily in the BUSINESS of featuring topless and/or bottomless dancers, go-go dancers, exotic dancers, male and/or female strippers, male or female impersonators, or similar entertainers, where explicit SEXUAL CONDUCT is depicted and/or SPECIFIED SEXUAL ACTIVITY is explicitly or implicitly encouraged or tolerated.
18. **ADULT-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. An ADULTS-ONLY business is synonymous with ADULT USE.
19. **ADULT SAUNA.** A BUSINESS that provides a steam bath, where explicit SEXUAL CONDUCT is depicted and/or SPECIFIED SEXUAL ACTIVITY is explicitly or implicitly encouraged or tolerated.
20. **ESCORT AGENCY** A BUSINESS association that furnishes offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
21. **SEXUAL CONDUCT.** Ultimate 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, with a person's unclothed genitalia, buttocks, perineum, anal or pubic regions, or female breast.
22. **SEXUAL ENCOUNTER CENTER.** A BUSINESS that offers, as its primary purpose, for any form of consideration:
- a. Physical contact in the form of wrestling or tumbling between persons of the same and/or opposite sex.
  - b. Activities between male and female persons and/or persons of the same sex when one (1) or more persons is in the state of nudity.
23. **SPECIFIED ANATOMICAL AREAS.** The following anatomical areas:
- a. Human genitals and pubic region.
  - b. Cleavage of the human buttocks.
  - c. That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). This includes the entire lower portion of the female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.
  - d. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
24. **SPECIFIED SEXUAL ACTIVITIES.** The following activities:
- a. Human genitals in a state of sexual stimulation, arousal, or tumescence.
  - b. Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sexual intercourse, or sodomy.
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.
  - d. Excretory functions as part of or in connection with any of the activities set forth in SPECIFIED ANATOMICAL AREAS.
  - e. Striptease, or the removal of clothing, or the wearing of transparent or diaphanous clothing, including models dressed only in lingerie to the point where SPECIFIED ANATOMICAL AREAS are exposed.
- AGGREGATE RESOURCES.** Naturally occurring concentrations of stone, rock, sand and/or gravel, decomposed granite, lime, pumice, and other similar raw materials.
- AGRICULTURAL CLASSES AND TOURS.** A course of instruction in which participants are taught about agricultural methods and practices, the operations of an agricultural enterprise, how to create AGRICULTURAL CRAFTS, and/or tour the agricultural grounds and buildings.
- AGRICULTURAL CRAFTS.** Handmade items, such as, but not limited to, baskets, cloth, clothes, wreaths, and broomcorn brooms, made primarily from an agricultural product grown or raised on the property and made by the owner or occupant of the property.
- AGRICULTURAL EXEMPT STRUCTURE.** A STRUCTURE that is utilized primarily for AGRICULTURE purposes when located on property where AGRICULTURAL purposes constitute the principal activity on the land consistent with this Ordinance and Illinois State Statutes. AGRICULTURAL EXEMPT STRUCTURES are required to meet building SETBACK and Stormwater Management Ordinance requirements, but are not required to meet building code requirements.
- AGRICULTURAL IMPLEMENT SALES AND SERVICE.** A BUSINESS primarily engaged in the sale or rental of farm tools, machinery and implements, tack, animal care

products and farm supplies, and includes farm machinery repair services. Sale of feed, grain, and seed are also allowed.

**AGRICULTURAL PRODUCE.** Fruit, vegetables, grains, eggs, milk, and honey prior to processing other than basic washing, sorting, and packaging.

**AGRICULTURAL PRODUCE PROCESSING.** A FACILITY used for the washing, sorting, juicing, dehydrating, milling, pasteurizing, cooking, canning, bottling, packaging, or storage of AGRICULTURAL PRODUCE harvested on the premises or on property owned or leased by the facility owner. AGRICULTURAL PRODUCE PROCESSING may include the processing of industrial hemp as defined above. AGRICULTURAL PRODUCE PROCESSING shall not include the processing of industrial hemp fiber. (See INDUSTRY, LIGHT and INDUSTRY, HEAVY). AGRICULTURAL PRODUCE PROCESSING shall not include the fermenting, distilling, or mixing of agricultural produce to produce alcoholic beverages, baked goods, or similar food products, or processing of CANNABIS or production of cannabis-infused products as defined by the Illinois Cannabis Regulation and Tax Act. (See FOOD PROCESSING)

**AGRICULTURAL PROTECTION AND CONSERVATION AREA.** An area of land of not less than 350 acres designated by the County Board with the owner's consent in accordance with the Agricultural Areas Conservation and Protection Act (505 ILCS 5/5) where no land shall be used for other than agricultural production, as described within Sections 3.01 and 3.02 of the act.

**AGRICULTURE.** The growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, aquaculture, dairying, floriculture, horticulture, NURSERIES, tree farms, sod farms, pasturage, viticulture and wholesale GREENHOUSES when such agricultural purposes constitute the principal activity on the land, in accordance with the Counties Code (55 ILCS 5/5-12001 *et seq.*). AGRICULTURE includes the wholesale and retail sale of products produced on the site, including FARMSTANDS, HORSE SHOWS, U-PICK OPERATIONS, and COMMUNITY SUPPORTED AGRICULTURE operations. AGRICULTURE also includes GAME BREEDING and HYDROPONICS. AGRICULTURE also includes, without limitation, the growing, developing, processing, conditioning, and selling of hybrid seed corn, seed beans, seed oats, or other farm seeds. AGRICULTURE does not include EARTH EXTRACTION even if such activity is related to an agricultural purpose. AGRICULTURE shall not include the cultivation of CANNABIS as defined by the Illinois Cannabis Regulation and Tax Act. (See CANNABIS CULTIVATION CENTER)

**AGRICULTURE EMPLOYEE HOUSING.** DWELLING UNIT(S) provided for housing agricultural employees on a year-round or seasonal basis.

**AGRITOURISM, LIMITED.** Establishment of activities on an existing agricultural operation for the purpose of attracting the public for the enjoyment, education, or active involvement in the activities of the agricultural operation. LIMITED AGRITOURISM activities may include the following and similar uses as determined by the Zoning Enforcement Officer: AGRICULTURAL CLASSES AND TOURS, ANIMAL SHOWS and petting zoos featuring FARM ANIMALS and other domestic animals, corn mazes, picnic areas, hay rides, tractor rides, and AGRITOURISM FOOD CONCESSION STANDS. LIMITED AGRITOURISM uses may be combined with allowed AGRICULTURE uses such as FARMSTANDS, HORSE SHOWS, U-PICK OPERATIONS, and COMMUNITY SUPPORTED AGRICULTURE operations.

**AGRITOURISM, INTENSIVE.** Establishment of activities on an existing agricultural operation for the purpose of attracting the public for the enjoyment, education, or active involvement in the activities of the agricultural operation. INTENSIVE AGRITOURISM activities may include all of the activities allowed under LIMITED AGRITOURISM. INTENSIVE AGRITOURISM activities may also include the following and similar uses as determined by the Zoning Enforcement Officer: cider mills, haunted houses, apple and pumpkin cannons, live entertainment, ON-FARM FARM-TO-TABLE DINNER, RESTAURANTS, AMPHITHEATERS, WINERIES, and AGRITOURISM GIFT SHOPS. INTENSIVE AGRITOURISM uses may be combined with allowed AGRICULTURE uses such as FARMSTANDS, HORSE SHOWS, U-PICK OPERATIONS, and COMMUNITY SUPPORTED AGRICULTURE operations.

**AGRITOURISM FOOD CONCESSION STAND.** A BUILDING or tent not exceeding six hundred (600) square feet where food and beverages are prepared and sold to patrons of AGRITOURISM uses. An AGRITOURISM FOOD CONCESSION STAND may not include indoor tables or seating for the consumption of food and beverages.

**AGRITOURISM GIFT SHOP.** A BUILDING, stand, or tent that sells souvenirs and novelty gift items, such as T-shirts, coffee mugs, key rings, ornaments, and foodstuffs, that are related to the agritourism theme of the property.

**AIRPORT/HELIPORT/HELISTOP - PUBLIC USE.** Includes primary, reliever, and general aviation airports as defined by the Illinois Department of Transportation including the area of land or water or both used for the landing and take-off of fixed wing, rotary, and vertical lift aircraft, and FACILITIES for the shelter, servicing or repair of aircraft, for receiving or discharging passengers or cargo, and all ancillary STRUCTURES and FACILITIES. AIRPORT/HELIPORT/HELISTOP - PUBLIC USE excludes HOSPITAL HELIPORT/HELISTOP.

**AIRPORT/HELIPORT/HELISTOP - PRIVATE USE.** The area of land or water or both used for the landing and take-off of fixed wing, rotary, and vertical lift aircraft, and FACILITIES for the shelter, servicing or repair of aircraft, for receiving or discharging passengers or cargo, and all ancillary STRUCTURES and FACILITIES. Use is limited to the Illinois Department of Transportation Airport Certificate Holder and any other users as authorized by the Certificate Holder. AIRPORT/HELIPORT/HELISTOP - PRIVATE USE excludes HOSPITAL HELIPORT/HELISTOP.

**ALCOHOLIC BEVERAGES - CONSUMPTION ON-PREMISE.** A BUSINESS that sells and serves alcoholic beverages for consumption on the premises. Snack foods or other prepared food may be available for consumption on the premises as an ancillary USE.

**ALCOHOLIC BEVERAGES - PACKAGE SALES.** A BUSINESS that offers the retail sales of alcoholic beverages for consumption off-premises.

**ALLEY.** A dedicated and improved roadway intended to provide supplementary public access to the rear or side of a LOT.

**ALTERATION.** Any change to the size or shape of a STRUCTURE.

**AMPHITHEATER.** An outdoor FACILITY, which may include ancillary STRUCTURES, used for entertainment events, including, but not limited to, concerts, plays, live shows, and lectures.

**AMUSEMENT FACILITIES, INDOOR.** A BUSINESS where spectator and participatory uses are conducted within an enclosed BUILDING, such as movie theaters, bowling alleys, pool halls, arcades, performance venues, and indoor sporting exhibitions. INDOOR AMUSEMENT FACILITIES may include ancillary uses, such as RESTAURANTS, which may serve alcohol for consumption on-premise. ARENAS are not INDOOR AMUSEMENT FACILITIES and are regulated as a separate USE by this Ordinance.

**AMUSEMENT FACILITY, OUTDOOR.** A BUSINESS where spectator and participatory uses are conducted outdoors, which may include partially enclosed FACILITIES. Typical uses include, but are not limited to, batting cages, mini-golf, performance venues, outdoor racetracks, off-road riding FACILITIES for motorcycles, all-terrain vehicles, mini-bikes, go-carts, and similar off-road vehicles, and outdoor sporting exhibitions. An OUTDOOR AMUSEMENT FACILITY may include ancillary uses, such as RESTAURANTS, which may serve alcohol for consumption on-premise. FAIRGROUNDS, ARENAS, OUTDOOR SHOOTING RANGE -COMMERCIAL, DRIVE-IN THEATERS, and AMUSEMENT PARKS are not OUTDOOR AMUSEMENT FACILITIES and are regulated as separate uses by this Ordinance.

**AMUSEMENT PARK.** An outdoor FACILITY, which includes various devices and STRUCTURES for entertainment, including, but not limited to, rides, booths for conducting games or sale of items, and STRUCTURES for shows and other entertainment.

**ANIMAL CARE SHELTER.** A property or FACILITY where animals are given short-term medical care or housing by qualified persons prior to adoption or release in the wild.

**ANIMAL SHOW.** An activity, which may include STRUCTURES of a temporary nature, featuring FARM ANIMALS engaged in exhibition, competition, performance, or training for educational purposes. ANIMAL SHOW does not include HORSE RACING EVENTS or rodeo events.

**AQUIFER.** An underground formation of porous materials, such as sand, gravel, or fractured rock, filled with water and capable of supplying useful quantities of water.

**ARCHITECTURAL FEATURE.** A part, portion, or projection that contributes to the aesthetics of a STRUCTURE, exclusive of signs, that is not necessary for the structural integrity of the STRUCTURE, or to make said STRUCTURE habitable.

**ARENA.** A FACILITY constructed with seats adjacent to a central field or court, used for the viewing of athletic events, entertainment, and other public gathering purposes, such as conventions, circuses, or concerts.

**ART GALLERY.** A BUSINESS engaged in the sale, loan, and/or display of paintings, sculpture, photographs, video art, or other works of art. ARTGALLERY does not include a CULTURAL FACILITY, such as a library or museum, which may also display paintings, sculpture, photographs, video art, or other works.

**ARTS STUDIO.** A BUSINESS where an art, type of exercise, or activity is taught, studied, or practiced such as dance, martial arts, photography, music, painting, gymnastics, or yoga.

**ASPHALT/CONCRETE BATCH FACILITY.** A FACILITY for the production of concrete, asphalt, and bituminous substances used for paving.

**ATHLETIC FACILITY, INDOOR.** An establishment that provides enclosed FACILITIES for health and fitness activities such as running, jogging, aerobics, weight lifting, court sports, and swimming, and may include ancillary enclosed FACILITIES such as locker rooms, showers, massage rooms, saunas, or snack bars and other related ancillary uses for the use of patrons.

**ATHLETIC FACILITY, OUTDOOR.** An establishment that provides health and fitness FACILITIES for activities such as running, jogging, court sports, and swimming, and may include indoor ancillary uses such as locker rooms, showers, massage rooms, saunas, or snack bars and other related ancillary uses for the use of patrons.

**ATTENTION-GETTING DEVICE.** Any pennants, spinner, streamer, searchlights, balloons, portable sign, and similar device or ornamentation designated for the purposes of attracting attention, promoting, or advertising.

**AUCTION.** A public sale in which real property, goods, or livestock is sold to the highest bidder.

**AUCTION HOUSE.** A FACILITY where real property, goods, or livestock are sold by AUCTION

**AUTO DEALERSHIP.** A BUSINESS that displays and sells or leases new or used automobiles, including motorcycles, panel trucks, and vans, and may include repair service as an ancillary USE.

**AUTO RENTAL.** A BUSINESS that provides rental of new or used automobiles, including panel trucks and vans, and may include repair of the fleet vehicles as an ancillary USE.

**AUTO REPAIR - MAJOR.** A BUSINESS that provides services in engine rebuilding, major reconditioning of worn or damaged MOTOR VEHICLES, motorcycles, all-terrain vehicles (ATV), RECREATIONAL VEHICLES and trailers, towing, and collision service, including body, frame or fender straightening or repair, and painting of MOTOR VEHICLES, and may include MINOR AUTO REPAIR services.

**AUTO REPAIR - MINOR.** A BUSINESS that provides services in minor repairs to MOTOR VEHICLES, motorcycles, all-terrain vehicles (ATV) vehicles, including repair or replacement of cooling, electrical, fuel and exhaust systems, brake adjustments, relining and repairs, wheel servicing, alignment and balancing, repair and replacement of shock absorbers, and replacement or adjustment of mufflers and tail pipes, hoses, belts, light bulbs, fuses, windshield wipers/wiper blades, grease retainers, wheel bearings, and the like.

**AVERAGE GROUND ELEVATION.** The average level of the finished surface on the ground adjacent to the exterior walls of a BUILDING or STRUCTURE.

**AWNING.** A roof-like cover, often of fabric or metal, designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a STRUCTURE over a window, walk, or door. For AWNINGS used as a SIGN, see SIGN, AWNING.

**BACKFILL.** Materials used to refill a ditch or other excavation, or the process of doing so.

**BAFFLING.** A barrier that may include earthen, sand and man-made BERMS, fencing, landscape plantings, or other features intended to mute the transmission of sound.

**BALCONY.** A platform which projects from the exterior wall of a BUILDING above the ground floor, which is exposed to the open air, has direct access to the interior of the BUILDING, and is not supported by posts or columns extending to the ground.

**BANNER.** Any cloth, canvas, plastic, fabric, or similar lightweight flexible material that is printed with a COMMERCIAL MESSAGE or NONCOMMERCIAL MESSAGE.

**BASEMENT/CELLAR.** A STORY constructed partly or wholly underground.

**BAY WINDOW.** A window that projects outward from the BUILDING, which does not rest on the BUILDING foundation or on the ground and has no additional structural support to the ground.

**BED AND BREAKFAST.** An operator-occupied DWELLING UNIT that provides lodging to the public for compensation in no more than five (5) guest rooms, where the operator remains on premise during the time that the DWELLING UNIT is utilized by guests and where the operator provides guests with additional services such as breakfast. A BED AND BREAKFAST serves the purpose of providing the opportunity for tourism or recreation to guests similar to a HOTEL/MOTEL or a VACATION RENTAL. A BED AND BREAKFAST does not serve the purpose of allowing guests to establish a permanent or short term residence. (See BOARDING HOUSE.)

**BERM.** An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes

**BEST MANAGEMENT PRACTICES (BMP).** Techniques, measures, or structural controls that are used to achieve a desired outcome in the most cost-effective manner and which typically exceed regulatory requirements. BMPs can be applied to STORMWATER management, soil erosion control, pest control, water resource management, MINING, and AGRICULTURE.

**BLOCK.** A tract of land bounded by STREETS, or by a combination of STREETS and public parks, CEMETERIES, railroad RIGHTS-OF-WAY, shorelines or waterways.

**BLOCKFACE.** That portion of a BLOCK or tract of land facing the same side of a single STREET and lying between the closest intersecting STREETS.

**BOARDING HOUSE.** A residential building that is either: 1) divided into three (3) or more HOUSEKEEPING UNITS wherein rooms, with or without individual or group cooking facilities, are rented to individuals under separate rental agreements or leases, or 2) occupied by a group of more than five (5) adult individuals not related by blood, marriage, or adoption. A BOARDING HOUSE is a type of multifamily housing.

**BROADCASTING STUDIO.** A FACILITY engaged in broadcasting and information relay services for radio and television signals.

**BUFFER YARD.** Land area with landscape plantings and other components used to visibly separate one USE from another or to shield or block noise, lights, or other nuisances.

**BUILDING.** Any STRUCTURE with substantial walls and roof securely affixed to land and entirely separated on all sides from any similar STRUCTURE by space or by walls in which there are no communicating doors, windows, or similar openings.

**BUILDING COVERAGE.** The portion of a LOT or PARCEL that is occupied by BUILDINGS or STRUCTURES, including ACCESSORY STRUCTURES, expressed as a percentage of total LOT AREA.

**BUSINESS.** A COMMERCIAL enterprise engaged in entertainment, distribution, hospitality, manufacturing, recreation, retail, service, storage, or wholesale activities.

**CALIPER.** The measure of the diameter of a tree, measured at six (6) inches above the ground for trees up to and including four (4) inch CALIPER size, and measured at twelve (12) inches above the ground for larger sizes.

**CAMPGROUND.** FACILITIES for two (2) or more CAMPSITES, established or maintained for occupancy by CAMPING UNITS.

**CAMPING UNIT.** Any tent, trailer, cabin, lean-to, RECREATIONAL VEHICLE, or similar STRUCTURE established, maintained or operated in a CAMPGROUND as temporary living quarters for recreation, education, or vacation purposes.

**CAMPSITE.** A plot of ground within a CAMPGROUND intended for the exclusive occupation by a CAMPING UNIT or units under the control of a camper.

**CANNABIS.** CANNABIS is marijuana, hashish, and other substances that are identified as including any parts of the plant *cannabis sativa* and including derivatives or subspecies, such as *indica*, of all strains of cannabis, whether growing or not: the seeds thereof, the resin extracted from any part of the plant: and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) of greater than 0.3% on a dry weight basis and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction, in accordance with the Illinois Cannabis Regulation and Tax Act. CANNABIS includes cannabis concentrate and cannabis-infused products. CANNABIS shall not include industrial hemp as defined and authorized under the Industrial Hemp Act.

**CANNABIS CRAFT GROWER.** A FACILITY operated by an organization or BUSINESS that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale to only licensed cannabis dispensing organizations and/or licensed cannabis infuser organizations. CANNABIS CRAFT GROWERS are limited to no more than 5,000 square feet of canopy space on its premises for plants in the flowering state in accordance with the Illinois Cannabis Regulation and Tax Act.

**CANNABIS CULTIVATION CENTER.** A FACILITY operated by an organization or BUSINESS that is licensed by the Illinois Department of Agriculture to perform necessary activities to provide only licensed cannabis dispensing organizations and/or licensed cannabis infuser organizations with usable cannabis. CANNABIS CULTIVATION CENTERS are over 5,000 square feet of canopy space on its premises for plants in the flower state in accordance with the Illinois Cannabis Regulation and Tax Act.

**CANNABIS DISPENSARY.** A FACILITY operated by an organization or BUSINESS that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from a licensed CANNABIS CULTIVATION CENTER or licensed cannabis infuser organization for the purpose of dispensing cannabis, cannabis infused products, paraphernalia, or related supplies and educational materials. CANNABIS DISPENSARY includes sale to registered qualifying medical patients and adults 21 years of age or older for personal use as permitted under the Illinois Cannabis Regulation and Tax Act.

**CANOPY.** A STRUCTURE, other than an AWNING, made of materials such as cloth or metal, or materials with a frame, either attached to a BUILDING or projecting from a BUILDING, and carried by a frame supported by the ground or sidewalk. For CANOPIES with advertising see SIGN, CANOPY.

**CAR WASH.** A BUSINESS for the washing and cleaning of passenger vehicles, RECREATIONAL VEHICLES or other light duty equipment, whether automatic, by hand, or self-service.

**CEMETERY.** Land and STRUCTURES such as columbaria, mausoleums, and crypts reserved for the interring of human remains. CEMETERIES may include STRUCTURES for performing religious ceremonies related to the entombment of the deceased as well as ACCESSORY STRUCTURES, such as sheds for the storage of maintenance equipment.

**CEMETERY, PET.** Land and STRUCTURES reserved for the exclusive interment of animal remains.

**CHIMNEY.** A vertical shaft of reinforced concrete, masonry, or other approved material enclosing one (1) or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel.

**CLASS III SPECIAL RESOURCES GROUNDWATER PROTECTION AREA.** An area of land designated by the Illinois Pollution Control Board pursuant to 35 Ill. Adm. Code 620.230 that contains GROUNDWATER that is demonstrably unique (e.g., irreplaceable sources of GROUNDWATER), vital for a particularly sensitive ecological system, or that contributes to a nature preserve dedicated pursuant to the Illinois Natural Areas Preservation Act (525 ILCS 30/).

**CLUB/LODGE.** A FACILITY for the use of a membership organization or association with elected officers and directors, pursuant to charter or bylaws, that excludes the general public from its premises and holds property for the common benefit of its members, such as a union hall or fraternal organization lodge. A CLUB/LODGE may also be rented to members and non-members for meetings, banquets, and other gatherings.

**CLUBHOUSE.** The PRINCIPAL BUILDING at a COUNTRY CLUB or GOLF COURSE that typically has a locker room for changing clothes, a store that sells sports equipment, a bar, and a RESTAURANT.

**CO-LOCATION.** Placement of WIRELESS TELECOMMUNICATIONS equipment from more than one (1) service or service provider on a single tower or site.

**COMMERCIAL.** A USE or activity involving the sale of goods or services for a financial gain.

**COMMERCIAL VEHICLE.** Any vehicle that is used in the operation of a BUSINESS enterprise.

**COMMUNITY CENTER.** A FACILITY for recreational, social, educational, and cultural activities owned and operated by a public or non-profit group or agency. A COMMUNITY CENTER may include retail sales of related items and RESTAURANTS as ACCESSORY USES.

**COMMUNITY SEWER SYSTEM.** An Illinois Environmental Protection Agency (IEPA) permitted wastewater treatment works that may be privately or publicly held.

**COMMUNITY SUPPORTED AGRICULTURE (CSA).** A food production and distribution system that directly connects farmers and consumers. Consumers buy "shares" in a farm's harvest in advance. Most CSAs require an annual buy-in and provide weekly deliveries or pick-ups during the harvest season.

**COMPACT AND CONTIGUOUS DEVELOPMENT.** Development that is located adjacent to existing development and that occurs at an efficient density in order to minimize the conversion of agricultural and rural land and maximize the use of available infrastructure.

**COMPOST.** The humus-like product of the process of COMPOSTING organic materials, which may be used as a soil conditioner.

**COMPOSTING.** The biological treatment process by which microorganisms decompose the organic fraction of waste, producing COMPOST.

**CONDITIONAL USE.** A USE that, owing to some special characteristics related to its operation or installation, is permitted in a zoning district only after individual review and approval of the particular USE at the particular location.

**CONSERVATION AREA.** Open space designated to preserve natural features and protect wildlife and critical environmental features, which may include opportunities for passive recreation and environmental education. A CONSERVATION AREA may include FACILITIES, visitor centers, and CAMPGROUNDS operated by a public or non-profit agency as ACCESSORY USES.

**CONSERVATION EASEMENT.** A legal agreement between a landowner and a government agency or non-profit organization that permanently limits uses of an area of land in order to protect its agricultural, ecological, esthetic, or other socially important values. The agreement allows the landowner to continue to own the land and to use the land in manners compatible with the preservation of the protected resource as provided for in the legal agreement.

**CONTIGUOUS.** To share a common LOT LINE or zoning district boundary without being separated by a STREET or ALLEY.

**CONTRACT PURCHASER.** A PERSON who has entered into a binding agreement (enforceable by law) with an OWNER for the purchase of property.

**COUNTRY CLUB.** A FACILITY operated for the social and recreation activities of members and their families and invited guests. A COUNTRY CLUB includes other uses permitted by this Ordinance including GOLF COURSES, DRIVING RANGES, RESTAURANTS, recreational areas and FACILITIES, such as SWIMMING POOLS and beaches, and similar uses. A COUNTRY CLUB may serve alcohol to members and their families and invited guests on the premises. A COUNTRY CLUB may also be used for banquets.

**COVENANT (COVENANTS AND RESTRICTIONS).** An agreement that binds and restricts the land in the hands of present owners and subsequent owners, enforced only by the land owners involved and not by the county or other public agency.

**CREMATORIUM.** A FACILITY for cremation of human or animal remains.

**CRITICAL ROOT ZONE.** The area at the base of a tree that extends out from the trunk to the drip line, or to a distance of one and one-half (1½) feet per inch DBH (Diameter at Breast Height), whichever is greater.

**CULTURAL FACILITY.** A FACILITY open to the public that provides access to cultural and educational exhibits and activities including, but not limited to, museums, cultural centers, non-COMMERCIAL galleries, historical societies, historic sites, and libraries. A CULTURAL FACILITY may include retail sales of related items and RESTAURANTS as ACCESSORY USES.

**CURRENCY EXCHANGE.** A BUSINESS that exchanges common currencies, sells money orders or cashier's checks, and cashes checks as its principal activity. A FINANCIAL INSTITUTION does not include a CURRENCY EXCHANGE.

**DAY.** Calendar day, unless otherwise specifically set forth in this Ordinance.

**DAY CAMP.** FACILITIES providing recreational and education activities during the day within a CAMPGROUND, CONSERVATION AREA, school, PLACE OF WORSHIP, or other public or institutional FACILITY.

**DAY CARE CENTER.** A state-licensed FACILITY operated by any PERSON, group of PERSONS, agency, association, or organization, where care, protection, and supervision are provided for less than twenty-four (24) hours a day for more than three (3) children under the age of twelve (12), or for well, ambulatory, or semi-ambulatory (non-bedridden) adults. A DAY CARE CENTER does not provide overnight accommodations.

**DAY CARE HOME.** A state-licensed FACILITY within an operator-occupied residence, where care, protection, and supervision are provided for less than twenty-four (24) hours a day for more than three (3) children, or for well, ambulatory, or semi-ambulatory (non-bedridden) adults. For a child DAY CARE HOME, the total number of children counted includes the family's natural, foster and/or adopted children, and all other persons under the age of twelve (12), and does not include FACILITIES that receive only children from a single HOUSEHOLD. A DAY CARE HOME does not provide overnight accommodations.

**DECK.** A roofless outdoor space built as an aboveground platform abutting the wall of a BUILDING and accessible from the BUILDING regardless of whether the platform is connected to the BUILDING or supported by freestanding structural supports.

**DECLARATION OF CONSENT.** An affirmation executed by all record owners of a property agreeing to the establishment of the SPECIAL SERVICE AREA and to the levy of a special tax pursuant thereto for the purposes set forth herein and containing all other consents or representations required by the County Board.

**DECOMMISSIONING.** The process of removing a FACILITY including, but not limited to, disassembling and removing the components and the foundation, from the property, and restoring the property to the pre-construction condition, unless regulations governing the property have changed subsequent to the original installation.

**DRIVE-THROUGH FACILITY.** That portion of a retail, RESTAURANT, or service BUSINESS where business is transacted directly with customers through a service window while customers remain within their MOTOR VEHICLE.

**DRIVE-IN THEATER.** An outdoor movie theater where patrons view movies on a screen from their vehicles.

**DRIVEWAY.** A paved or unpaved access strip of land providing a vehicular connector between the STREET and a parking area or GARAGE.

**DWELLING, MIXED-USE.** A DWELLING UNIT located in the same building as a BUSINESS. The DWELLING UNIT is allowed only when located above or behind a ground-floor non-residential use. A ground-floor DWELLING UNIT shall not be located along the primary STREET frontage.



**DWELLING, MULTIFAMILY.** A residential building containing three (3) or more attached DWELLING UNITS used for residential occupancy.

**DWELLING, SINGLE-FAMILY.** A detached residential building containing only one (1) DWELLING UNIT.

**DWELLING, TWO-FAMILY.** A residential dwelling containing two (2) DWELLING UNITS, each with separate entrances.

**DWELLING UNIT.** One (1) or more rooms in a residential building, which are arranged, designed, or used as living quarters for one (1) HOUSEHOLD, with living, bathroom, and kitchen FACILITIES permanently installed.

**DWELLING UNIT, ANCILLARY.** A detached STRUCTURE or portion of a principal STRUCTURE with living and cooking FACILITIES designed to be occupied as a residence by a HOUSEHOLD, but not constituting the PRINCIPAL USE on the property.

**EARTH EXTRACTION/MINING.** The extraction and processing of mineral or AGGREGATE RESOURCES from places of natural occurrence to surface location, including activities involved in the development of an AGGREGATE RESOURCE once found. EARTH EXTRACTION/MINING does not include any of the following:

1. Any cutting, grading, trenching, digging, or backfilling of any foundation of a BUILDING approved for construction by McHenry County.
2. Any cutting, grading, trenching, digging, or backfilling of any septic tank site, including septic field approved for construction or reconstruction by McHenry County.
3. Top dressing in areas of existing homes, in which top dressing does not change drainage patterns.
4. Construction and/or maintenance of ponds less than two (2) acres in size.
5. Excavating an irrigation pond, provided that the excavated material is not crushed, washed, sized, or screened prior to removal from the excavation property.

**EASEMENT.** The right of use giving a PERSON, government agency, public utility company, or other entity the ability to use land owned by another PERSON, government agency, public utility company, or other entity for a specific purpose.

**EAVE.** The projecting lower edges of a roof overhanging the wall of a BUILDING.

**EDUCATIONAL FACILITY - COLLEGE/UNIVERSITY/TECHNICAL.** A FACILITY for post-secondary higher learning that grants associate or bachelor degrees or certificates. The institution may also have research FACILITIES and/or professional schools that grant master and doctoral degrees. COLLEGE/UNIVERSITY OR TECHNICAL EDUCATIONAL FACILITIES also include post-secondary theological schools for training religious leaders and FACILITIES that offer instruction in industrial, clerical, computer, managerial, automotive, repair (electrical, plumbing, carpentry, etc.), commercial or artistic skills, or a BUSINESS conducted as a COMMERCIAL enterprise, such as a driving school. COLLEGE/UNIVERSITY OR TECHNICAL EDUCATIONAL FACILITIES include ancillary uses such as dormitories, cafeterias, retail sales of educational supplies, and similar uses.

**EDUCATIONAL FACILITY - PRESCHOOL THROUGH HIGH SCHOOL.** A public, private, or parochial FACILITY that offers instruction at the preschool, elementary, junior-high, and/or high- school levels.

**EMERGENCY SHELTER, TEMPORARY.** See TEMPORARY EMERGENCY SHELTER.

**ENCROACHMENT.** The extension or placement of a STRUCTURE or ARCHITECTURAL FEATURE into a required SETBACK.

**ERECT.** To build, construct, attach, hang, place, suspend, or affix.

**EROSION.** The wearing away of the land surface by the action of wind, water or gravity.

**EXOTIC ANIMAL BREEDING AND TRAINING.** The breeding and training of animals other than common domesticated and FARM ANIMALS. Exotic animals include, but are not limited to, dangerous animals such as, lions, wolves, bears, venomous reptiles and fish, and non-human primates.

**EXTERIOR STAIRWELL.** One (1) or more flights of stairs and the necessary landings and platforms connecting them to form a continuous passage from the entryway of one floor or level to another in a BUILDING or STRUCTURE located on the exterior of a PRINCIPAL BUILDING.

**FACILITY.** Space, STRUCTURES, and/or equipment used for a specific purpose.

**FAIRGROUND.** A FACILITY, which may include both outdoor areas and enclosed permanent or TEMPORARY STRUCTURES, used for the exhibition of livestock, farm products, and similar goods, or for carnival-like entertainment.

**FARM ANIMAL.** Any animal customarily raised on farms including, but not limited to, alpacas, bison, burros, cattle, chickens, donkeys, ducks, emus, fish, geese, goats, horses, llamas, mink, mules, ostriches, rabbits, sheep, swine, and turkeys. The management and care of FARM ANIMALS is known as animal husbandry, which is an agricultural purpose.

**FARM CHEMICAL AND FERTILIZER SALES.** Retail sales of agricultural chemicals, including fertilizer.

**FARMERS MARKET.** A common FACILITY or area where two (2) or more farmers gather to sell a variety of raw fruits and vegetables and other farm and food products directly to consumers.

**FARMSTAND.** A STRUCTURE used for the retail sales of raw fruits, vegetables, and eggs and limited NURSERY items, prepared food items, meat and dairy products, and AGRICULTURAL CRAFTS, subject to the standards established in Chapter 16.56 (Use Standards). FARMSTAND shall not include the dispensing of CANNABIS, cannabis infused products, paraphernalia, or related supplies. (See CANNABIS DISPENSARY)

**FARRIER.** A blacksmith BUSINESS for fabricating, adapting, and adjusting metal shoes for horses, which may include equine hoof care, including the trimming and balancing of horses' hooves and the placing of shoes on their hooves.

**FEED, TACK, GRAIN, AND SEED SALES.** A BUSINESS that engages in the wholesale or retail sale of animal feed, grain, seed, tack, animal care products, equipment for animal husbandry, apiary supplies, and similar items. Seeds to be sold may include plant, flower, and vegetable seeds that are not included within the definition of AGRICULTURE. The term animal as used in this definition includes all types of animals, fish, and fowl and is not limited to FARM ANIMALS. FEED, TACK, GRAIN, AND SEED SALES does not include the sale or rental of farm tools, machinery and implements, or farm machinery repair services.

**FENCE.** A constructed barrier of wood, masonry, stone, wire, metal, or other combination of materials erected to fully or partially enclose or screen an area. An elevated deck railing is not a FENCE.

**FINAL PLAT.** The official graphic depiction of a subdivision that is ultimately filed for the record in the McHenry County Recorder's Office. It shows all LOTS, EASEMENTS, STREETS, and other dedicated areas. The FINAL PLAT also indicates items such as building SETBACK lines, restricted areas for septic systems, and any ingress and egress restrictions.

**FINANCIAL INSTITUTION.** A bank, credit union, or mortgage OFFICE. A FINANCIAL INSTITUTION does not include a CURRENCY EXCHANGE.

**FLEA MARKET.** A retail market that rents space to individual vendors who sell merchandise, such as antiques, used household goods, and knickknacks.

**FLAG.** A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope and used as the symbol or emblem of a city, state, country, other governmental entity, military unit, or educational institution.

**FLOOD OF RECORD.** An area designated on the USGS-Hydrologic Investigation Atlas Flood of Record Maps.

**FLOODPLAIN.** Those areas of McHenry County that are specified as floodplains, in the McHenry County Stormwater Management Ordinance.

**FLOODWAY.** Those areas of McHenry County that are specified as Designated Floodway or Non-Designated Floodway in the McHenry County Stormwater Management Ordinance.

**FOOD PROCESSING.** A FACILITY for the preparation, processing, canning, or packaging of food products including, but not limited to, canning, dairy processing, meat processing, and the milling of grain. FOOD PROCESSING may include production of cannabis-infused products with an approved infuser license as defined by the Illinois Cannabis Regulation and Tax Act.

**FOOD PROCESSING, HOME.** A HOME OCCUPATION involving the preparation, processing, canning, or packaging of food products, and which includes honey houses and commercial kitchens (subject to the Sanitary Food Preparation Act [410 ILCS 650] and Article IV of the McHenry County Public Health Ordinance) and home kitchens (subject to the Food Handling Regulation Enforcement Act sections for "Home Kitchens Operations" [410 ILCS 625/3.4] and "Cottage Food Operations" [410 ILCS 625/4]).



**FOOTCANDLE.** A unit of illumination. It is equivalent to the illumination at all points that are one (1) foot distant from uniform source of one (1) candlepower.

**FREIGHT TERMINAL.** A FACILITY where commercial vehicles are stored and maintained and where cargo may be transferred from one transport vehicle to another or between modes of transport including rail, air, truck, or ship. Cargo may be stored on site for a brief period of time. FREIGHT TERMINAL may include transporting organization with an approved transportation license as defined by the Illinois Cannabis Regulation and Tax Act.

**FREQUENCY.** The number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

**FUNERAL HOME.** A FACILITY where the deceased are prepared for burial and where the deceased are displayed and ceremonies are conducted for the deceased before burial or cremation.

**GAME BREEDING.** The breeding of animals hunted for food or sport and not normally domesticated.

**GAME PRESERVE.** Land area, licensed by the State of Illinois, where special hunting privileges are granted and which must meet certain requirements for area and operating procedures.

**GARAGE.** A STRUCTURE, either attached or detached, used or designed to be used for the parking and storage of vehicles.

**GARDEN CENTER.** A BUSINESS where gardening and landscaping supplies and products, including plants, NURSERY products and stock, potting soil, hardware, power equipment and machinery, garden and farm variety tools and utensils, and paving stone and bricks, are sold to consumers and may include a NURSERY and/or GREENHOUSES. A GARDEN CENTER may import the items sold.

**GAS STATION.** A BUSINESS that dispenses for sale vehicular fuels and which may include ancillary retail and car wash bays.

**GAZEBO.** An ACCESSORY STRUCTURE, covered by a roof, which may be enclosed with screening, intended for outdoor recreational USE.

**GOLF COURSE/DRIVING RANGE - COMMERCIAL.** Land area designated for playing golf, improved with features such as trees, greens, fairways, and water hazards, or, FACILITIES for practicing the hitting of golf balls, equipped with distance markers, clubs, balls, and tees. A GOLF COURSE/DRIVING RANGE may be open to the public or may be part of a COUNTRY CLUB with access restricted to dues-paying members. A GOLF COURSE/DRIVING RANGE may include ancillary uses such as a CLUBHOUSE, RESTAURANT, bars, and retail sales of golf related items.

**GOVERNMENT FACILITY.** FACILITIES owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

**GRAIN ELEVATOR - COMMERCIAL.** A FACILITY where grain is deposited in a silo or other storage FACILITY, and may include ancillary FACILITIES, such as receiving and testing offices, weighbridges, storage FACILITIES and/or complexes of such STRUCTURES.

**GRAPHICS, WALL.** A COMMERCIAL MESSAGE or NON-COMMERCIAL MESSAGE painted directly onto the exterior wall or roof of a commercial, office, industrial, agricultural, or other non-residential BUILDING.

**GRAPHICS, WINDOW.** A COMMERCIAL MESSAGE or NON-COMMERCIAL MESSAGE painted, printed, attached to, or placed upon the interior of a window or glass door of a BUILDING or painted or printed on the exterior of a window or glass door of a BUILDING and intended for viewing from the exterior of the BUILDING.

**GREENHOUSE.** An AGRICULTURAL EXEMPT STRUCTURE constructed primarily of plastic or glass material and intended to provide a warmer environment through radiation from the sun or a temperature controlled environment for growing plants including, but not limited to, fruits, vegetables, flowers, shrubbery, and trees.

**GREENHOUSE/NURSERY BUSINESS.** A BUSINESS where GREENHOUSE and/or NURSERY products are grown and sold wholesale or directly to retail consumers. GREENHOUSE/NURSERY BUSINESS shall not include the growing or selling of CANNABIS. (See CANNABIS CULTIVATION CENTER and CANNABIS DISPENSARY)

**GREEN INFRASTRUCTURE.** A Strategically planned and managed network of natural lands, working landscapes, and other open spaces that conserve ecosystem values and functions along with products, technologies, and practices that use natural systems – or engineered systems that mimic natural processes – to enhance overall environmental quality and provide utility services.

**GROSS FLOOR AREA (GFA).** The sum of the gross horizontal area of all HABITABLE FLOORS of a HABITABLE STRUCTURE, as measured from the outside face of the walls.

**GROUNDWATER.** Water stored underground in rock crevices and in the pores of geologic materials that make up the Earth's crust.

**GROUNDWATER, CLASS III SPECIAL RESOURCE.** GROUNDWATER that is determined by the Illinois Pollution Control Board to be demonstrably unique (e.g., irreplaceable sources of GROUNDWATER) and vital for a particularly sensitive ecological system or groundwater that contributes to a dedicated Illinois Nature Preserve.

**GROUP HOME.** A residential building occupied by persons who receive treatment, rehabilitation, or specialized care for mental or physical impairments which substantially limit one or more major life activities, such as but not limited to seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, or working. Residents, which may include live-in staff members or care providers, function as a single HOUSEKEEPING UNIT. GROUP HOMES include recovery homes as defined by the State of Illinois and sober living homes for individuals whose primary disability is recovery from drug and/or alcohol addiction and that provide structured activities directed toward recovering from substance use disorders. A GROUP HOME does not accept placement of individuals as an alternative to incarceration or as a condition of release from incarceration in a jail or prison. (See HALFWAY HOUSE).

**HABITABLE FLOOR.** Any level of a HABITABLE STRUCTURE where persons live, occupy, work, congregate, or gather.

**HABITABLE STRUCTURE.** Any STRUCTURE where persons live, occupy, work, congregate, or gather. A STRUCTURE used primarily for storage, such as a GARAGE, storage SHED, barn, or other ACCESSORY STRUCTURE is not a HABITABLE STRUCTURE.

**HALFWAY HOUSE.** A residence licensed, certified, or accredited by the appropriate state or federal agency for the housing of persons who have been convicted of a crime, or who have been released from jail or prison, that is designed to facilitate their readjustment to society and learn to adapt to independent living. Halfway houses aim to assist in community transition and may provide vocational training, counseling, and other services.

**HEAVY RETAIL SALES AND SERVICE.** A BUSINESS that sells, rents, or services heavy vehicles and equipment, sells lumber, or sells construction supplies on a large scale, with outdoor service or storage areas. HEAVY RETAIL SALES AND SERVICE includes, but is not limited to, truck rental and repair establishments, large-scale moving centers, large-scale home improvement centers, lumberyards, boat storage yards, RV storage yards, and playground equipment sales centers.

**HEDGE.** A row of closely planted shrubs, bushes, or any kind of plant forming a continuous vegetative screen.

**HELIPORT/HELISTOP, HOSPITAL.** A HELIPORT/HELISTOP limited to serving only helicopters and vertical lift aircraft engaged in air ambulance or HOSPITAL related functions. A HOSPITAL HELIPORT/HELISTOP is an allowed ACCESSORY USE to a HOSPITAL.

**HOME OCCUPATION.** An occupation, profession, activity or USE by an occupant of the residence that is clearly a customary, incidental, and secondary to the USE of a residential DWELLING UNIT and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**HOMELESS/DOMESTIC VIOLENCE SHELTER.** A permanent FACILITY for providing short term housing for individuals who are homeless or victims of domestic violence. See also TEMPORARY HOMELESS/DOMESTIC VIOLENCE SHELTER.

**HOOP HOUSE.** An unheated GREENHOUSE constructed of plastic stretched over a flexible frame that is used to extend the growing season of fruits, vegetables, or other plants.

**HORSE ARENA, INDOOR/OUTDOOR.** A FACILITY equipped with a platform, ring, ARENA, or the like, used for HORSE SHOWS and other equine related activities for pleasure, training, competition, exhibitions, demonstration, sale, or therapeutic riding for the disabled.

**HORSE RACING EVENT.** Any type of horse racing, including, but not limited to, flat-track horse racing, harness horse racing and steeplechase racing, consisting of two or more participating horses racing simultaneously, each of which is either mounted by a jockey or harnessed to a sulky, carriage, or similar vehicle.

**HORSE RACING SPECTATOR SPORT EVENT FOR A COMMERCIAL PURPOSE.** A HORSE RACING EVENT which is not sanctioned by the Illinois Racing Board and at which the spectators pay an ADMISSION FEE to attend the event, the spectators outnumber the participants, and at which either vending occurs and/or financial profit is derived.

**HORSE SHOW.** Any aggregation of horses where there occurs the exhibiting, judging, showing, or racing of horses. HORSE SHOW excludes HORSE RACING SPECTATOR SPORT EVENT FOR A COMMERCIAL PURPOSE.

**HORSE STABLES.** FACILITIES for equines, including horse ranches, boarding stables, and riding schools, which may include barns, stables, corrals, HORSE ARENAS, paddocks, polo fields, cross country courses, and the like.

**HOSPITAL.** FACILITIES for primary health services and medical or surgical care to people, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions, and, including as an integral part of the institution, related FACILITIES such as LABORATORIES, outpatient FACILITIES or training FACILITIES. HOSPITAL includes, but is not limited to, sanitariums and any other medical FACILITY where intensive medical treatment and overnight care is provided. A HOSPITAL may include a HOSPITAL HELIPORT/HELISTOP as an ACCESSORY USE.

**HOTEL/MOTEL.** A FACILITY that provides sleeping accommodations for a fee and customary lodging services. Related ancillary uses include, but are not be limited to, conference and meeting rooms, RESTAURANTS and bars, and recreational FACILITIES for the use of guests.

**HOUSEHOLD.** An individual; a family of individuals related by blood or marriage or adoption, including foster children; or a group of not more than five (5) adult individuals not related by blood or marriage or adoption - who function as a single HOUSEKEEPING UNIT.

**HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY.** A permanent FACILITY where the public can drop-off residentially generated solid waste items that have a chemical or biological nature that makes them potentially dangerous to living things. Collected waste materials are stored on site in limited quantities and for a limited time until delivered to an approved disposal FACILITY.

**HOUSEKEEPING UNIT.** Cohabitation involving the sharing of living space, meals, recreation, social activities, and other aspects of residential living.

**HYDRIC SOILS.** See SOILS, HYDRIC.

**HYDROPONICS.** A method of growing plants using mineral nutrient solutions in water, without soil.

**IMPERVIOUS SURFACE.** A measure of intensity of land use that represents the portion of a site that is occupied by BUILDINGS, STRUCTURES, pavement, and other surfaces that do not allow for the absorption of water.

**INDUSTRY, HEAVY.** The manufacturing or processing of materials or products predominately from raw materials, or a USE engaged in storage or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially generate noise, heat, lighting and glare, dust and air pollution, radioactive and hazardous waste, odors, toxic substances, or fire and explosion hazards, as regulated in § 16.60.040 15.4 (Environmental Performance Standards). HEAVY INDUSTRY uses may include OUTDOOR STORAGE and activity areas. INDUSTRY, HEAVY may include the processing of hemp fiber.

**INDUSTRY, LIGHT.** The manufacturing, fabrication, assembly, treatment, or packaging of products predominantly from prepared or processed materials, including milled lumber. LIGHT INDUSTRY uses include the incidental storage, sales, and distribution of such products. LIGHT INDUSTRY uses generate limited outside impacts. INDUSTRY, LIGHT may include the processing of hemp fiber.

**INTENSITY OF USE.** Square feet of GROSS FLOOR AREA, number of DWELLING UNITS, number of employees, or other factor used as a basis for requiring parking or loading FACILITIES.

**KENNEL - COMMERCIAL.** A BUSINESS where six (6) or more dogs over six (6) months of age are boarded, bred, raised, and/or trained for COMMERCIAL gain.

**LABORATORY.** A FACILITY for scientific research, investigation, testing, and experimentation. A LABORATORY may include housing of laboratory animals, but not FACILITIES for the manufacture or sale of products. A LABORATORY may include temporary pilot plant installations incidental to the research conducted at the FACILITY. LABORATORY may include the research and testing of CANNABIS.

**LAND CONSERVATION ORGANIZATION.** A public or private organization having the statutory authority to hold CONSERVATION EASEMENTS and/or own dedicated and/or deed-restricted open space areas, with a demonstrated capacity to manage and oversee such areas.

**LANDING AREA, RESTRICTED.** Any area of land, water, or both, other than an AIRPORT, HELIPORT, or HELISTOP, that is used or is made available for the landing and takeoff of fixed-wing or rotary-wing aircraft that is intended for private USE.

**LANDING AREA, RESTRICTED – PERSONAL USE.** A RESTRICTED LANDING AREA the USE of which is limited to the property OWNER and invited guests free of charge.

**LANDMARK.** A property, STRUCTURE, view, or vista designated as a "Landmark" by ordinance of the County Board, pursuant to procedures prescribed within the McHenry County Historic Preservation Ordinance.

**LANDOWNER, NON-PARTICIPATING.** A PERSON who is not a PARTICIPATING LANDOWNER in regard to the installation of a WIND ENERGY SYSTEM or its ancillary FACILITY.

**LANDOWNER, PARTICIPATING.** Any PERSON with a vested fee interest in real property upon which a WIND ENERGY SYSTEM or its ancillary FACILITY is located, or who is either deriving or entitled to derive payments from the FACILITY owner.

**LANDSCAPE BUSINESS.** A BUSINESS that provides services designing, installing, planting, or maintaining yards, gardens, or other outside grounds, and where equipment, supplies, and plant material may be stored on-site. A LANDSCAPE BUSINESS includes: landscape installation, care, and maintenance services; hardscape installation and maintenance; lawn care services (i.e., fertilizing, mowing, seeding, sod laying, spraying); plant, shrub, and tree services (i.e., bracing, planting, pruning, removal, spraying, trimming); and, seasonal property maintenance services (i.e., snow plowing and pavement de-icing in winter, landscaping during other seasons).

**LANDSCAPE WASTE.** Accumulation of grass or shrubbery cuttings, leaves, tree limbs, and other material accumulated as the result of the care of lawns, shrubbery, vines, and trees. Christmas trees are excluded.

**LANDSCAPE WASTE COMPOSTING FACILITY.** A FACILITY for the Composting of LANDSCAPE WASTE materials accumulated as the result of the care of lawns, shrubbery, vines, and trees. When the materials being composted are generated on-site as a result of the OWNER or lessor's own activities, it is not a LANDSCAPE WASTE COMPOSTING FACILITY.

**LANDSCAPE WASTE TRANSFER FACILITY.** A FACILITY where LANDSCAPE WASTE is collected, possibly ground to reduce its volume, held no longer than twenty-four (24) hours from the time it was received, and transferred from the subject property pursuant to an operational permit issued by the Illinois Environmental Protection Agency pursuant to 35 IAC Part 807.

**LIGHTING, FULLY SHIELDED.** A fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

**LIGHTING, UNSHIELDED.** A fixture that allows light, either directly from the lamp or indirectly from the fixture or a reflector, to be emitted above the horizontal plane running through the lowest point on the fixture where light is emitted.

**LOADING BERTH.** A space within a loading FACILITY exclusive of DRIVEWAYS, aisles, maneuvering areas, ramps, columns, landscaping areas, office, and work areas for the temporary parking of a COMMERCIAL VEHICLE while loading or unloading goods or materials, and which abuts upon a STREET, ALLEY, or other appropriate means of ACCESS.

**LOT.** A unit of land designated within a subdivision, the plat of which has been duly authorized and recorded in the McHenry County Recorder's Office. (See also PARCEL.)

**LOT AREA.** The computed area of a LOT or PARCEL.

**LOT, CORNER.** A LOT or PARCEL CONTIGUOUS to two (2) STREETS at their juncture, when the interior angle formed is less than one hundred thirty-five (135) degrees.

**LOT, FLAG.** A LOT or PARCEL shaped and designed that the main building site area is set back from the RIGHT-OF-WAY on which it fronts and includes a narrow corridor access strip to connect the main building site with the RIGHT-OF-WAY.

**LOT FRONTAGE.** The length of the FRONT LOT LINE of an INTERIOR LOT or the combined length of the FRONT LOT LINE and the CORNER SIDE LOT LINE of a CORNER LOT. In no case shall a LOT LINE be counted toward LOT FRONTAGE when ACCESS to the STREET that it abuts is restricted by a plat of subdivision.

**LOT, INTERIOR.** A LOT or PARCEL other than a CORNER LOT.

**LOT, THROUGH.** For an INTERIOR LOT, a LOT or PARCEL with two (2) STREET LOT LINES. For a CORNER LOT, the LOT or PARCEL with three (3) STREET LOT LINES.

**LOT, ZONING.** A single LOT or PARCEL, or a portion of a LOT or PARCEL, or a combination of all or parts of several LOTS or PARCELS that function as a single unit for the purpose of zoning enforcement by virtue of being under common ownership and having the same zoning district designation.

**LOT LINE.** A property boundary line of a LOT or PARCEL or, for the purpose of establishing a zoning boundary line, where a single LOT or PARCEL is divided into multiple zoning districts.

**LOT LINE, CORNER SIDE.** The LOT LINE of a CORNER LOT that is perpendicular or approximately perpendicular to the FRONT LOT LINE, abuts a STREET, and is not a

REAR LOT LINE.

**LOT LINE, FRONT.** For an INTERIOR LOT, the LOT LINE that abuts a STREET. For a CORNER LOT, the shortest LOT LINE that abuts a STREET. For a THROUGH LOT, the LOT LINE providing the primary ACCESS to the LOT.

**LOT LINE, REAR.** The LOT LINE that is most distant from and is, or is approximately, parallel to the FRONT LOT LINE.

**LOT LINE, STREET.** A LOT LINE that abuts a STREET.

**LOT LINE, INTERIOR SIDE.** The LOT LINE that is not abutting a STREET and is not a REAR LOT LINE.

**LOT LINE, SIDE.** A LOT LINE that is not a FRONT LOT LINE or a REAR LOT LINE, which may be an INTERIOR SIDE LOT LINE or CORNER SIDE LOT LINE.

**LUMBER YARD.** A BUSINESS that sells processed logs or timber.

**LUMINAIRE.** A complete lighting unit extending from a support STRUCTURE, consisting of a light source and all necessary mechanical, electrical, and decorative parts. A LUMINAIRE does not include a pole or other support.

**MAP CORRECTION.** A process to correct minor drafting inaccuracies on the Official Zoning Map, made in error by the County.

**MARINA.** A boat basin and recreational FACILITY located on waterfront property which provides moorings for boats and has one (1) or more of the following FACILITIES: boat launching ramps, boat sales and delivery FACILITIES, boat repair, storage and fueling FACILITIES, and boat construction and engine repair. Construction and repair work shall be carried on only within an enclosed STRUCTURE.

**MASSAGE THERAPY CENTER.** A FACILITY where services are provided for the treatment or manipulation of the human body administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar trained and licensed professional for health purposes.

**MEDICAL/DENTAL CLINIC.** Offices, with no overnight FACILITIES, for the care, diagnosis, and treatment of sick, ailing, infirm, or injured people and those who are in need of medical, surgical, psychological, or dental attention.

**MEMORIAL PLAQUE.** A SIGN, tablet, or plaque memorializing a person, event, STRUCTURE, or site.

**MENU BOARD.** A device that lists items for sale at a restaurant or other establishment with a DRIVE-THROUGH FACILITY and intended to be decipherable to persons on the property and not from a public right-of-way or a public property.

**MESSAGE, COMMERCIAL.** A lettered, numbered, symbolic, pictorial, or illuminated visual display that advertises, identifies, announces, directs, or informs the viewer about a business, product, good, service, or real property or event that is available for purchase, lease, rent, or attendance for an ADMISSION FEE.

**MESSAGE, NONCOMMERCIAL.** A lettered, numbered, symbolic, pictorial, or illuminated visual display that expresses a view or opinion or urges action on a social, economic, political, or religious issue or that provides warnings or directional information, including, but not limited to, messages that advocate for or against a candidate for public office, proposition, referendum, or any other public question on the ballot of any national, state, or local election.

**MESSAGE, OFF-PREMISES COMMERCIAL ADVERTISING.** A COMMERCIAL MESSAGE displayed on a property where the business, product, good, service, or real property or event that is the subject of the COMMERCIAL MESSAGE is not available for purchase, lease, rent, or attendance.

**METEOROLOGICAL TOWER.** A meteorological test wind tower with an anemometer, used for the measurement and recording of wind speed, as described in the Counties Code and the Illinois Municipal Code (55 ILCS 5/5-12020 and 65 ILCS 5/11-13-26).

**MINING OPERATOR.** Any PERSON, firm, partnership, or corporation engaged in and controlling a MINING operation, including governmental agencies.

**MINI-WAREHOUSE.** A FACILITY for the storage of personal property where individual renters control individual storage spaces. A MINI- WAREHOUSE may include ancillary retail sales of related items, such as moving supplies.

**MOBILE HOME.** A STRUCTURE, transportable in one (1) or more sections, which is built on a permanent chassis and is designed to be used as a DWELLING UNIT, with or without a permanent foundation, when connected to the required utilities. A MOBILE HOME does not include RECREATIONAL VEHICLES.

**MOBILE HOME PARK.** Land area where two (2) or more MOBILE HOMES are located, either free of charge or for revenue purposes, including any associated STRUCTURES, related to individual MOBILE HOMES such as garden sheds, GARAGES, DECKS, or patios and any associated STRUCTURES related to the MOBILE HOME PARK such as management offices, maintenance buildings, access roads, water supply systems, and sewage disposal systems.

**MOTOR VEHICLE.** Any self-propelled wheeled vehicle designed primarily for transportation of persons or goods along public STREETS.

**MUNICIPAL WASTE.** Garbage, general household waste, institutional and commercial waste, industrial lunch-room or office waste, LANDSCAPE WASTE, or construction and demolition debris.

**NATIVE VEGETATION.** Vegetation that originally occurred in northeastern Illinois prior to arrival of European settlers. NATIVE VEGETATION is identified in "Plants of the Chicago Region" (Swink and Wilhelm, 1994).

**NATURAL AREA.** Land and water that has substantially retained its natural character or land and water that, although altered in character, is important as habitats for plant, animal, or marine life, for the study of its natural, historical, scientific, or paleontological features, or for the enjoyment of its natural features.

**NATURAL GROUNDWATER RECHARGE FUNCTIONS.** The capacity of uncompacted soils to infiltrate and filter precipitation and runoff water and recharge underlying GROUNDWATER systems.

**NATURAL RESOURCES CONSERVATION SERVICE.** A division of the United States Department of Agriculture which provides technical assistance in soil-related matters to individuals, units of government, etc. through the local soil and water conservation district office.

**NATURAL RESOURCE INVENTORY (NRI) REPORT.** A report prepared by the McHenry-Lake County Soil and Water Conservation District that describes the soils, as shown on the Official McHenry County Soil Maps, surficial geology, and other natural features of a parcel of land, and evaluates in general terms its suitability for a particular USE.

**NONCONFORMING LOT.** A tract of land designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means that complied with the LOT AREA, lot width, LOT FRONTAGE and other dimensional standards of the zoning district requirements of the zoning ordinance in effect as of the date that the LOT was created, but that does not comply with the minimum LOT AREA, LOT FRONTAGE or other dimensional requirement of the zoning district in which it is located in this Ordinance or any subsequent amendments.

**NONCONFORMING STRUCTURE.** An existing STRUCTURE that, as of the effective date of this Ordinance or any subsequent amendments, does not comply to the district bulk or SETBACK requirements of this Ordinance, provided that the property OWNER can document that the STRUCTURE was in conformance with the district bulk and SETBACK requirements of the zoning ordinance in effect as of the date that the STRUCTURE was constructed or that the property OWNER can provide documentation to the satisfaction of the Zoning Enforcement Officer that the agricultural, single- or two-family residential, or residential ACCESSORY STRUCTURE existed prior to, March 1, 2005, regardless of if such agricultural, single- or two-family residential, or residential ACCESSORY STRUCTURE was lawful at the time of construction.

**NONCONFORMING USE.** A USE of land or USE of a STRUCTURE that, as of the effective date of this Ordinance or any subsequent amendments, including map amendments, is used for purposes that are not allowed in the zoning district in which it is located, provided that the property OWNER can document that the USE was in conformance with the zoning ordinance in effect as of the date that the USE was established or that the property OWNER can provide documentation to the satisfaction of the Zoning Enforcement Officer that the agricultural, single- or two-family residential, or residential ACCESSORY USE existed prior to, March 1, 2005, regardless of if such agricultural, single- or two- family residential, or residential ACCESSORY USE was lawful at the time of establishment.

**NURSERY.** An area of land where young trees or other plants are raised for transplanting or sale.

**OFFICE.** A FACILITY for the processing, manipulation, or application of business information or professional expertise. An OFFICE may or may not offer services to the public and is not materially involved in fabricating, assembling, or warehousing of physical products for the retail or wholesale market, nor engaged in the repair of products or retail services. It is characteristic of an OFFICE that retail or wholesale goods are not shown on the premises to a customer. OFFICE does not include GOVERNMENT FACILITIES, which are a separate USE.

**OFF-PREMISES COMMERCIAL ADVERTISING SIGN.** See SIGN, OFF-PREMISES COMMERCIAL ADVERTISING.

**OFFSITE SERVICES BUSINESS.** A BUSINESS engaged in building trades (e.g., carpentry, ironworking, masonry, pipefitting, or roofing), offsite repairs, or other services primarily conducted offsite and involving vehicles and/or heavy machinery, such as trucks, snowplows, paving equipment, or excavation equipment, and which typically include

OUTDOOR STORAGE as an ACCESSORY USE.

**OFF-STREET PARKING.**The storage space for an automobile on premises other than on STREETS or RIGHTS-OF-WAY.

**ON-FARM FARM-TO-TABLE DINNER.** A meal prepared primarily from locally sourced agricultural products including products grown on the farm where the meal is served where the guests are charged an ADMISSION FEE.

**ONSITE WASTEWATER TREATMENT SYSTEM.** Any sewage or handling or treatment FACILITY receiving domestic sewage for disposal on the property where it was generated, or on property where the same OWNER has legal access, and having no ground surface discharge there or on any LOT or PARCEL. ONSITE WASTEWATER TREATMENT SYSTEM shall also mean septic system.

**OUTDOOR STORAGE.**The placing any goods, wares, merchandise, commodities, junk, debris, construction materials or equipment, agricultural materials or equipment, residential materials or equipment, or any other item outside of a completely enclosed BUILDING for a period longer than forty-eight (48) hours.

**OVERBURDEN.** All of the earth and other materials which lie above mineral or AGGREGATE RESOURCES.

**OVERLAY ZONING DISTRICTS.**Geographic subareas of the County that have special characteristics or development issues and where additional zoning regulations, including regulations that allow additional flexibility for the use of property, are in effect in addition to the regulations of the base zoning district.

**OWNER.** A titleholder of record, or if title is held in trust, the beneficiary of the trust or the PERSON or PERSONS who have acquired any interest in the property by contract or purchase or otherwise.

**PARAPET.** The extension of a false front or wall above a roof-line.

**PARCEL.** An area of land described by metes and bounds or by division making reference to the original government public land survey.

**PARK.** A non-COMMERCIAL FACILITY that serves the recreation needs of residents. Parks include, but are not limited to, playgrounds, beaches, DAY CAMPS, ball fields, football fields, soccer fields, basketball courts, tennis courts, dog parks, skateboard parks, and park district field houses, which may have indoor recreation FACILITIES.

**PARKING LOT.** An open, hard-surfaced area, other than a STREET or public way, used for the storage of operable passenger MOTOR VEHICLES whether for compensation or at no charge.

**PARKING STRUCTURE.** A STRUCTURE composed of two (2) or more levels or floors used for the parking or storage of operable passenger MOTOR VEHICLES whether for compensation or at no charge.

**PASSENGER TERMINAL.** A FACILITY for handling, receiving and transferring passenger traffic, including, but not limited to aircraft, trains, buses, and watercraft.

**PAWN SHOP.** A BUSINESS that lends money on the deposit or pledge of physically delivered personal property, and who may also purchase such property on the condition of selling it back again at a stipulated price. Consignment shops and antique shops are not considered PAWN SHOPS, but rather RETAIL GOODS ESTABLISHMENTS.

**PATIO.** An improved outdoor space designed and intended for recreational use by people, particularly for sitting, dining, and relaxing.

**PERSON.** Any individual, partnership, co- partnership, firm, company, corporation, association, joint stock company, trust, estate, legal entity, or their legal representative(s), agent(s) or assign(s).

**PERSONAL SERVICE ESTABLISHMENT.**A BUSINESS primarily engaged in the provision of frequent services of a personal nature. Typical PERSONAL SERVICE ESTABLISHMENTS include, but are not limited to, beauty salons, spas, barbershops, tanning salons, COMMERCIAL copy shops, animal grooming, shoe repair, repair shops (including small engine repair), gold purchasing BUSINESSES, laundromats, dry cleaners and tailors, tax preparation services, and insurance agencies.

**PLACE OF WORSHIP.** A FACILITY where persons regularly assemble for religious purposes, religious instruction, and related social events, which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes. A PLACE OF WORSHIP may include housing for persons under religious vows or orders, a cemetery, or a public food pantry.

**PLANNED DEVELOPMENT.**A type of conditional use permit in which an area of land is granted flexibility with regard to its development consistent with the purposes and standards of Chapter 16.28 (Planned Developments).

**POLLUTION CONTROL FACILITY.**A waste storage site, sanitary landfill, waste disposal site, waste treatment FACILITY, waste transfer FACILITY, or waste incinerator.

**PORCH.** A STRUCTURE, which can be enclosed or unenclosed, that projects from the exterior wall of a BUILDING, has direct access to the ground, and is covered by a roof or eaves. An unenclosed PORCH is open on two (2) or more sides, and may have a railing along the edge. An enclosed PORCH is enclosed by walls, screens, lattice or other material on two (2) or more sides. A screened-in PORCH is considered an enclosed PORCH.

**PORTABLE ASPHALT/CONCRETE BATCH FACILITY.** Temporary, portable equipment set up for the production of concrete or bituminous substances used for paving.

**POULTRY AND SMALL ANIMAL PROCESSING PLANT.**Operations in which the carcasses of slaughtered poultry are defeathered, eviscerated, cut-up, skinned, boned, canned, salted, stuffed, rendered, or otherwise manufactured or processed. Poultry and small animals are defined as chickens, turkeys, ducks, geese, guineas, squab (pigeons up to one month old), small game birds such as quail, pheasant, and partridge and rabbits.

**POWER PRODUCTION.**Plant, FACILITIES, and equipment for the purposes of generating, transmitting, delivering, or furnishing energy for the COMMERCIAL production of power.

**POWER-DRIVEN PROCESSING EQUIPMENT.** Equipment such as, but not limited to, balers, granulators, shredders, crushers, grinders, densifiers, and conveyors used exclusively to process RECYCLABLE MATERIALS for the secondary materials market.

**PRAIRIE.** An extensive area of flat to hilly, predominantly treeless, grassland. PRAIRIES comprise those native plant communities that are dominated by a diversity of perennial forbs, or wildflowers, growing in a perennial graminoid, or grass-like, matrix which forms a dry flammable turf in autumn.

**PRELIMINARY PLAT.** A graphic depiction of the proposed LOT LINES, STREETS, and other engineering improvements of a proposed subdivision superimposed on a map of the existing topography. Where septic systems are to be used for subsurface waste disposal, a PRELIMINARY PLAT also indicates soil classifications and wetness categories used to determine suitability of various areas for the septic systems.

**PRINCIPAL BUILDING.**The BUILDING in which a PRINCIPAL USE is conducted.

**PRINCIPAL USE.** The main USE of a LOT, PARCEL, or STRUCTURE, as distinguished from an ACCESSORY USE.

**PRINTING ESTABLISHMENT.**A FACILITY for the custom reproduction of written or graphic materials on a custom order basis. Typical processes include, but are not limited to, offset printing, photocopying, blueprint printing and copying, and binding. PRINTING ESTABLISHMENTS do not include a COMMERCIAL copy shop, where services such as photocopying, binding, and access to computers and facsimile sending and receiving are provided, which is considered a PERSONAL SERVICE ESTABLISHMENT.

**PROCESSING RECYCLABLES.** Preparation of RECYCLABLE MATERIALS for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and re-manufacturing.

**PUBLIC SAFETY FACILITY.** FACILITIES operated by public safety agencies, including fire stations, and police and sheriff substations and headquarters, including the dispatching, storage and maintenance of police and fire vehicles, or public works FACILITIES of a governmental entity for repair, storage, or production FACILITIES, including the dispatching, storage, and maintenance of official vehicles. Training activities may be conducted by the resident public safety agency on a limited basis.

**PUBLIC SAFETY TRAINING FACILITY.** A FACILITY used by police departments, fire departments, rescue squad units, civil defense units, and any other related groups to conduct training maneuvers for the welfare and safety of the public. A PUBLIC SAFETY TRAINING FACILITY may include target shooting ranges.

**PUBLIC USE AREA.**The area within a USE where the public or a substantial number of the public has access to, including but not limited to, such areas as dining rooms, restrooms, bar seating, display areas, etc.

**QUALIFYING STRUCTURE.** A supporting wireless telecommunications STRUCTURE that is: an existing STRUCTURE, if the height of the FACILITY, including the structure, is not more than fifteen (15) feet higher than the STRUCTURE just before the FACILITY is installed; or, a substantially similar, substantially same-location replacement of an existing STRUCTURE, if the height of the FACILITY, including the replacement STRUCTURE is not more than fifteen (15) feet higher than the height of the existing STRUCTURE just before the FACILITY is installed.

**RECEPTION FACILITY.**A BUSINESS that provides the hosting and rental services of a banquet hall or similar FACILITY for private events including, but not limited to,

wedding receptions, holiday parties and fundraisers, with food and beverages that are prepared on site or by a caterer and served to invited guests during intermittent dates and hours of operation. A RECEPTION FACILITY may have overnight guest rooms for the use of persons attending events. A RECEPTION FACILITY is not operated as a RESTAURANT with regular hours of operation nor as a HOTEL offering overnight accommodations to persons other than persons attending events.

**RECLAMATION.**The process for restoring land to a condition whereby a permitted end USE may be established.

**RECLAMATION, SIMULTANEOUS.** RECLAMATION that is accomplished as EARTH EXTRACTION/MINING operations progress.

**RECREATIONAL VEHICLE.** A vehicle designed as temporary living quarters and/or for recreational, camping, or travel use, which either has its own mode of power or is mounted on or drawn by another vehicle. This includes the following types:

1. **TRAVEL TRAILER (INCLUDING FIFTH-WHEEL TRAILERS).** A vehicular transportable unit identified by the manufacturer as a travel trailer, whether mounted on wheels or not, designed and constructed primarily to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than eight and one-half (8½) feet and an overall body length of no more than forty (40) feet, when factory equipped for the road.
2. **MOTOR HOME.** A vehicular unit built upon a self-propelled MOTOR VEHICLE chassis primarily designed to provide temporary living quarters for recreational, camping, or travel use.
3. **PICKUP COACH/TRUCK CAMPER.** A portable unit designed to be loaded onto or affixed to a pickup or other truck chassis and constructed to provide temporary living quarters for recreational, camping, or travel use.
4. **CAMPING TRAILER.** A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls that fold or collapse for towing by another vehicle to provide temporary living quarters for recreational, camping, or travel use.
5. **BOAT.** A vessel designed to travel on water.
6. **BOAT TRAILER.** A trailer designed to haul a boat as designed above.

**RECREATIONAL VEHICLE SALES.** A BUSINESS that sells or leases new or used RECREATIONAL VEHICLES. A RECREATIONAL VEHICLE SALES business may maintain an inventory of the vehicles for sale or lease either on-site or at a nearby location, and may provide on-site FACILITIES for the repair and service of the vehicles sold or leased by the dealership.

**RECYCLABLE MATERIALS.** Materials that are separated from garbage, MUNICIPAL WASTE, or refuse for the purpose of recycling, including but not limited to, aluminum and tin cans, newspapers, corrugated cardboard, high grade printing and writing papers, magazines, LANDSCAPE WASTE, plastic, and glass containers.

**RECYCLING COLLECTION CENTER.** A FACILITY that accepts SEGREGATED, non-hazardous, non-special, homogeneous, non-putrescible materials such as dry paper, glass, electronics, batteries, cans, or plastic, for short-term storage for the subsequent use in the secondary materials market.

**RECYCLING COLLECTION MOBILE UNIT.** An automobile, truck, trailer, or van used for the collection of RECYCLABLE MATERIALS or the bins, boxes, or containers transported by trucks, vans, or trailers, and used for the collection of RECYCLABLE MATERIALS.

**RECYCLING DROP-OFF POINT.** A site or FACILITY that accepts only SEGREGATED, non-hazardous, non-special, RECYCLABLE MATERIALS for the subsequent use in the secondary materials market. Such recycling drop-off points may include: reverse vending machines, either singularly or located in groups, mobile units, kiosk units, igloos, or unattended containers.

**RECYCLING PROCESSING FACILITY.** A FACILITY that accepts non-hazardous, non-special, homogeneous, non-putrescible materials such as, but not limited to, dry paper, glass, electronics, batteries, cans, or plastic for storage, operation and/or processing by POWER-DRIVEN PROCESSING EQUIPMENT for the subsequent use in the secondary materials market.

**REPAIRS.** Those construction activities related to maintenance of BUILDINGS or STRUCTURES without removal or cutting away of any exterior or interior wall, partition, or portion thereof, or the cutting of any structural beam, joist, or bearing support.

**RESIDENTIAL CARE FACILITY.** A group care FACILITY offering twenty-four (24) hour medical or non-medical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. A RESIDENTIAL CARE FACILITY may include independent living, assisted living, or nursing home FACILITIES, including continuum of care FACILITIES.

**RESORT.** A FACILITY comprised of one or more STRUCTURES containing guest rooms, which can be rented individually or as a group, with a large portion of the site devoted to indoor and outdoor recreational activities, including but not limited to MASSAGE THERAPY CENTERS and RECEPTION FACILITIES.

**RESTAURANT.** A BUSINESS where food and/or beverages are prepared, served and consumed on-site or for carry-out and delivery. RESTAURANTS may offer alcoholic beverages for sale as incidental to food and non-alcoholic beverage service.

**RESTRICTED LANDING AREA.** See LANDING AREA, RESTRICTED.

**RESTRICTED LANDING AREA – PERSONAL USE.** See LANDING AREA, RESTRICTED – PERSONAL USE.

**RETAIL GOODS ESTABLISHMENT.** A BUSINESS that provides physical goods, products, or merchandise for sale directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A RETAIL GOODS ESTABLISHMENT that sells primarily pre-packaged food products, such as a delicatessen, bakery, or grocery, may offer incidental seating areas for consumption of food on the premises. RETAIL GOODS ESTABLISHMENT excludes any BUSINESS that dispenses cannabis, cannabis infused products, paraphernalia, or related supplies, see CANNABIS DISPENSARY.

**RIGHT-OF-WAY.** Land acquired by reservation, dedication, prescription, or condemnation, and intended to be occupied by a STREET, sidewalk, parkway, trail, water line, sanitary sewer, and/or other public utilities or FACILITIES.

**ROOFLINE.** The top edge of a roof or building PARAPET, whichever is higher, excluding any cupolas, pylons, CHIMNEYS, or minor projections.

**SALVAGE YARD.** A FACILITY where used vehicles, appliances, building fixtures, ARCHITECTURAL FEATURES from STRUCTURES, and similar commodities are sorted, dismantled and/or offered for sale.

**SATELLITE DISH ANTENNA.** A round antenna greater than one (1) meter (39.37 inches) in diameter designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication, or other signals from other antennas, satellites, or other services. Round antennas less than one (1) meter (39.37 inches) in diameter are not regulated by this Ordinance.

**SAVANNA.** Landscapes with between ten percent (10%) and fifty percent (50%) native tree canopy, commonly dominated by oak trees.

**SAWMILL.** A FACILITY that includes equipment or apparatus for sawing logs and timber.

**SCREENING.** A method of visually shielding or obscuring STRUCTURES or uses from abutting or nearby properties with FENCES, WALLS, BERMS, or densely planted vegetation.

**SEGREGATED.** RECYCLABLE MATERIAL separated at the point of generation from MUNICIPAL WASTE.

**SENSITIVE AQUIFER RECHARGE AREA (SARA).** Those areas of McHenry County with groundwater AQUIFERS that are most susceptible to become contaminated from pollution based on their surface and subsurface soil and geologic characteristics as identified in Map Unit A (High Potential for Aquifer Recharge/Contamination) and Map Unit B (Moderately High Potential for Aquifer Recharge/Contamination) of the McHenry County Sensitive Aquifer Recharge Area Map contained in the *McHenry County Water Resources Action Plan* as adopted by the County Board on October 18, 2011, and as may be amended from time to time.

**SETBACK.** The minimum distance that the closest wall of a STRUCTURE or the closest point of a USE must be separated from a LOT LINE, RIGHT-OF-WAY line, or STREET centerline, as specified by this Ordinance.

**SHADOW FLICKER.** The strobe effect caused by the shadows cast by the rotating blades of a WIND ENERGY SYSTEM on a sunny day. SHADOW FLICKER intensity is defined as the difference or variation in brightness at a given location in the presence and absence of a shadow.

**SHED.** An ACCESSORY STRUCTURE, whether constructed on site or purchased pre-built or as a kit in pre-fabricated sections, not designed to be served by heat, electricity, or plumbing. A SHED is typically intended to store lawn, garden, or SWIMMING POOL care equipment.

**SHOOTING RANGE, INDOOR - COMMERCIAL.** A partially or fully enclosed FACILITY used for the discharge of firearms for the purposes of recreation, practice, firearm testing, target practice, skeet and trap shooting, or temporary competitions. INDOOR SHOOTING RANGE includes indoor archery ranges.

**SHOOTING RANGE, OUTDOOR - COMMERCIAL.** An outdoor FACILITY used for the discharging of firearms for the purposes of recreation, practice, firearm testing, target practice, skeet and trap shooting, or temporary competitions, such as turkey shoots where attendees pay an ADMISSION FEE or are offered an opportunity to purchase goods or services. COMMERCIAL OUTDOOR SHOOTING RANGE includes outdoor archery ranges. Hunting and nonrecurring discharging of firearms on private property with the property owner's permission are not considered a COMMERCIAL OUTDOOR SHOOTING RANGE.

**SIGN PERMIT.** A permit that grants permission for the construction, ALTERATION, or relocation of a SIGN.

**SIGN.** A STRUCTURE located on private property which is oriented towards a public right-of-way or public property and which contains a COMMERCIAL MESSAGE or NON-COMMERCIAL MESSAGE that can be deciphered from a public right-of-way or public property. SIGNS do not include FLAGS, ATTENTION GETTING DEVICES, BANNERS, MENU BOARDS, WALL GRAPHICS, or WINDOW GRAPHICS.

**SIGN, A-FRAME.** A SIGN typically constructed in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently embedded in the ground or attached to a BUILDING or STRUCTURE, and usually two-sided, and having a sign area of not more than four (4) square feet and a maximum sign height of six (6) feet. Any A-FRAME SIGN that exceeds these dimensional limitations is regulated as a GROUND SIGN – MONUMENT or GROUND SIGN - POLE.

**SIGN, ANIMATED.** Any SIGN which uses movement or change of lighting to depict action or to create a special effect or scene. ANIMATED SIGNS do not include DIGITAL SIGN components.

**SIGN, AWNING.** A SIGN that is printed or displayed upon an AWNING.

**SIGN, BANNER.** See BANNER.

**SIGN, BLADE (A.K.A., FEATHER SIGN).** A SIGN that is constructed of a BANNER supported by a single vertical pole mounted into the ground.

**SIGN, CANOPY.** A SIGN that is printed or displayed upon a canopy.

**SIGN, DIGITAL.** Any SIGN or portion of a SIGN that uses changing lights to form a SIGN message or messages in textual form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

**SIGN, FLASHING.** A SIGN which contains an intermittent or sequential flashing light source used primarily to attract attention.

**SIGN, GROUND.** Any SIGN placed upon or supported by the ground independently of any other STRUCTURE.

**SIGN, GROUND - MONUMENT.** A GROUND SIGN where the base of the sign STRUCTURE is on the ground or up to a maximum of eighteen (18) inches above grade. The monument base must be designed as an integral part of the sign STRUCTURE. The width of the top of the sign STRUCTURE can be no more than one-hundred twenty percent (120%) of the width of the base.

**SIGN, GROUND - POLE.** A GROUND SIGN that is affixed, attached or erected on one (1) or two (2) poles that is not itself an integral part of the sign.

**SIGN, MOVING.** Any SIGN that, in whole or in part, rotates, elevates, or in any way alters position or geometry. MOVING SIGNS do not include clocks or barber poles.

**SIGN, OFF-PREMISES COMMERCIAL ADVERTISING.** A SIGN that contains an OFF-PREMISES COMMERCIAL ADVERTISING MESSAGE.

**SIGN PERMIT.** A permit that grants permission for the construction, ALTERATION, or relocation of a SIGN.

**SIGN, PROJECTING.** Any SIGN that is attached to a BUILDING or other STRUCTURE, and extends beyond the surface of the STRUCTURE to which it is attached by eighteen (18) inches or more.

**SIGN, TEMPORARY - NONSTRUCTURAL.** A SIGN comprised of not more than three support wires, rods, posts, or poles not exceeding one (1) by one (1) inches or one (1) inches in diameter and that are not permanently embedded in the ground with a message surface composed of paper, cardboard, corrugated vinyl, or a BANNER; or a similarly composed message surface mounted flush against a building, gate, or fence; and that is erected for a limited period of display. TEMPORARY NONSTRUCTURAL SIGNS may be supported by three or fewer metal u-channel or t-channel sign posts, regardless of the dimensions of the metal u-channel or t-channel sign posts.

**SIGN, TEMPORARY - STRUCTURAL.** A SIGN comprised of not more than three support rods, posts, or poles exceeding one (1) by one (1) inches or one (1) inches in diameter that are not permanently embedded in the ground with a message surface composed of paper, cardboard, plastic, corrugated vinyl, a BANNER, wood or metal and that is erected for a limited period of display.

**SIGN, WALL.** A SIGN mounted flat against and projecting less than eighteen (18) inches from the wall of a STRUCTURE with the exposed face of the sign in a plane parallel to the face of the wall.

**SIGN, YARD.** A type of GROUND SIGN comprised of one or two support rods, posts, or poles not exceeding four (4) by four (4) inches or five (5) inches in diameter with a message surface not exceeding nine (9) square feet in area composed of paper, cardboard, wood, plastic, corrugated vinyl, a BANNER, or metal and with a maximum sign height of six (6) feet or a similarly composed message surface not exceeding nine (9) square feet in area mounted flush against a gate or fence. A BANNER mounted between existing fixed objects or mounted flush against an existing structure is not a YARD SIGN.

**SITE PLAN REVIEW.** A mandatory review process intended to promote orderly development and redevelopment in the County.

**SITE PREPARATION - EARTH EXTRACTION/MINING.** Preliminary measures to ready an area prior to commencing EARTH EXTRACTION/MINING activity which may include, but is not limited to, the installation of BERMS and/or FENCES, removal of OVERBURDEN, construction of ACCESS and/or haul roads, preparation of monitoring wells, and installation of lights and/or gates.

**SOIL BORING.** An observation pit, dug by hand or backhoe at least two (2) feet wide, or an undisturbed soil core taken intact and undisturbed by a probe. SOIL BORINGS shall extend at least five (5) feet below the natural ground surface, or greater if needed.

**SOIL BORING LOG.** A report documenting the depths to the seasonal and permanent water saturation, depth to bedrock, USDA/NRCS soil texture and soil structure, soil coloration, depth of SOIL MOTTLING, permeability range, slope, soil compaction, and other soil characteristics that may reduce or increase permeability.

**SOIL MOTTLING.** A soil condition that occurs when soils are wet for long periods. This results in reduced oxygen levels in the soil causing the natural red or brown colors of soil to have gray spots (mottles). Mottles indicative of these wet conditions have a Chroma equal to or less than two (2) and a Value equal to or greater than four (4) on the Munsell Soil Color Chart.

**SOILS, GROUNDWATER DISCHARGE.** For the purpose of identifying SENSITIVE AQUIFER RECHARGE AREAS (SARA), GROUNDWATER DISCHARGE SOILS are only those soils belonging to one of the following soil series: 1067A Harpster, 1082A Millington, 1100A Palms, 1103A Houghton, 1201A Lena, 1488A Hoopole, 1626A Kish, and 4103A Houghton.

**SOILS, HYDRIC.** Soils that formed under conditions of saturation where flooding or ponding occurs long enough during the growing season to develop anaerobic conditions in the upper part. HYDRIC SOILS are identified in the *Soil Survey of McHenry County, Illinois*, including any subsequent amendments.

**SOILS, RESTRICTED PERMEABILITY.** For the purpose of identifying SENSITIVE AQUIFER RECHARGE AREAS (SARA), RESTRICTED PERMEABILITY SOILS are only those soils found in table 6, (Main Cropland Limitations and Hazards) of the *Soil Survey of McHenry County, Illinois*, including any subsequent amendments, which have restricted permeability and belonging to the Ashkum soil series.

**SOILS, STEEP SLOPE.** For the purpose of identifying SENSITIVE AQUIFER RECHARGE AREAS (SARA), STEEP SLOPE SOILS are only those soils found in table 6, (Main Cropland Limitations and Hazards) of the *Soil Survey of McHenry County, Illinois*, including any subsequent amendments, which have slope classes C, D, E or F, except those soils with STEEP SLOPES that have excessive permeability which are considered SENSITIVE AQUIFER RECHARGE AREA.

**SOIL SURVEY.** A document created by the USDA Natural Resources Conservation Service which records soil types with maps and describes soil characteristics.

**SOLAR FARM.** A FACILITY where the PRINCIPAL USE is the production of electric power through the conversion of sunlight into an energy source.

**SOLAR PANEL.** A device that collects and converts sunlight, a source of energy, for such purposes as heating or cooling a STRUCTURE, heating or pumping water, or generating electricity. SOLAR PANEL includes solar thermal panels.

**SPECIAL SERVICE AREA (SSA).** A CONTIGUOUS area within a municipality or county in which special governmental services are provided in addition to those services provided generally throughout the municipality or county, the cost of the special services to be paid from revenues collected from taxes levied or imposed upon property within that area as provided for in the Illinois Property Tax Code (35 ILCS 200/27).

**SPECIAL SERVICE AREA PROPOSING ORDINANCE.** An ordinance proposing the establishment of a SPECIAL SERVICE AREA that also sets forth a date and form of

notice for the SSA Hearing.

**SPOIL.** Waste material that is exposed and removed in excavating.

**STACKING SPACE.** A space specifically designated as a waiting area for vehicles patronizing a DRIVE-THROUGH FACILITY.

**STEEP SLOPES.** Land slopes equal to or greater than twelve percent (12%).

**STOOP.** An exterior floor typically, but not necessarily, constructed of concrete and/or masonry, with a finished floor elevation higher than the adjacent ground level, often with steps leading up to it, and utilized primarily as an access platform to a BUILDING.

**STORAGE YARD.** A FACILITY for OUTDOOR STORAGE, including items for sale, lease, processing, and repair, where such FACILITY is the PRINCIPAL USE of the property.

**STORAGE, OUTDOOR.** See OUTDOOR STORAGE.

**STORMWATER.** Precipitation and snow melt that flows as channelized or unchannelized surface flow or through underground culverts or pipes.

**STORY.** That part of a BUILDING between the wearing surface of a floor and the floor next above, and if there is no floor above, then the ceiling immediately above. A BASEMENT/CELLAR is a STORY if its ceiling is six (6) feet or more above the level from which the height of the BUILDING is measured.

**STREET.** A state, County, township, municipal, or private roadway.

**STRUCTURAL ALTERATION.** Any change in the supporting members of a STRUCTURE, such as foundation wall, bearing walls or partitions, columns, beams, or girders or any substantial change in the roof or in the exterior walls, excepting such repairs as may be required for the safety, maintenance, and upkeep of the STRUCTURE.

**STRUCTURE.** Anything constructed, erected, or placed, which requires location in or on the ground or a body of water, or is attached to something having a location on the ground, including earthen works.

**SUBDIVIDER.** Any individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings to effect a subdivision of land as the OWNER of record, for the OWNER of record, or for another with consent of the OWNER of record.

**SUN GLINT.** The reflection of sunlight off of a surface of the blades, tower, or other components of a WIND ENERGY SYSTEM.

**SURFACE WATER.** Water that resides or flows in streams, rivers, natural lakes, constructed reservoirs, and WETLANDS.

**SWEEP AREA.** The area encompassed by the rotating blades of a WIND ENERGY SYSTEM.

**SWIMMING POOL.** A receptacle for water and/or an artificial pool of water of twenty-four (24) inches or more in depth, intended for swimming or other recreational USE.

**SYSTEM HEIGHT - WIND ENERGY SYSTEM.** The height of a FREESTANDING WIND ENERGY SYSTEM as measured from the AVERAGE GROUND ELEVATION to the highest point on the system, including the tip of the blades when they are at the highest point in their rotation. The height of a BUILDING-MOUNTED WIND ENERGY SYSTEM as measured from the highest point on the BUILDING to the highest point on the system, including the tip of the blades when they are at the highest point in their rotation.

**TEMPORARY AGRITOURISM EVENT.** Temporary activities conducted on an existing agricultural operation for the purpose of attracting the public for the enjoyment, education, or active involvement in the activities of the farm or operation. TEMPORARY AGRITOURISM EVENT activities may include all INTENSIVE AGRITOURISM activities. TEMPORARY AGRITOURISM EVENTS may be conducted in combination with LIMITED AGRITOURISM uses and AGRICULTURE uses such as FARMSTANDS, HORSE SHOWS, U-PICK OPERATIONS, and COMMUNITY SUPPORTED AGRICULTURE operations.

**TEMPORARY CONTRACTOR'S OFFICE.** A temporary, portable, or modular STRUCTURE utilized as a watchman's quarters, construction OFFICE, equipment shed, or sales center during the construction of a new development.

**TEMPORARY EMERGENCY RESIDENCE.** The TEMPORARY USE of a MOBILE HOME in the event of a fire or natural disaster that results in the partial or total demolition of any residence making it unfit for human habitation, for use during rehabilitation of the original residence or construction of a new residence.

**TEMPORARY EMERGENCY SHELTER.** The short-term USE of a FACILITY or property to provide housing for individuals who are displaced by acts of God such as fires, floods, and tornadoes and to provide short-term housing for personnel who are responding to such emergencies. A TEMPORARY EMERGENCY SHELTER is an allowed ACCESSORY USE within another PRINCIPAL USE or on the land occupied by another PRINCIPAL USE, such as a PLACE OF WORSHIP, EDUCATIONAL FACILITY or GOVERNMENT FACILITY.

**TEMPORARY ENTERTAINMENT EVENT.** A temporary live entertainment event, such as the performance of live music, revue, or play within an outdoor space or indoor FACILITY not typically used for such events. TEMPORARY ENTERTAINMENT EVENT includes HORSE SHOWS (when not in conjunction with a HORSE STABLE), ANIMAL SHOWS, carnivals/circuses, temporary worship services, and others. TEMPORARY ENTERTAINMENT EVENT does not include SPECTATOR SPORT HORSE RACING EVENTS FOR COMMERCIAL PURPOSES.

**TEMPORARY FARMERS MARKET.** A common FACILITY or area where two (2) or more farmers gather to sell a variety of raw fruits and vegetables and other farm and food products directly to consumers on an occasional basis during the agricultural growing and harvest season.

**TEMPORARY FIREWORKS DISPLAY.** The detonation, ignition, or deflagration of consumer fireworks to produce a visual or audible effect or the detonation, ignition, or deflagration of display fireworks, special effects, or flame effects to produce a visual or audible effect as regulated by the Illinois Fireworks Use Act (425 ILCS 35/).

**TEMPORARY HOMELESS/DOMESTIC VIOLENCE SHELTER.** The short-term or seasonal USE of an existing FACILITY to provide housing for individuals who are homeless or victims of domestic violence. A TEMPORARY HOMELESS/DOMESTIC VIOLENCE SHELTER is an allowed TEMPORARY USE within another PRINCIPAL USE such as a PLACE OF WORSHIP, EDUCATIONAL FACILITY or GOVERNMENT FACILITY.

**TEMPORARY REAL ESTATE SALES OFFICE.** A residential unit temporarily used for display purposes as an example of DWELLING UNITS available or to be available for sale or rent in a particular subdivision or other residential development. TEMPORARY REAL ESTATE SALES OFFICE may also incorporate sales or rental offices for dwellings within the development.

**TEMPORARY SALES EVENT.** Temporary sales where goods are sold, such as consignment auctions, FLEA MARKETS, arts and crafts fairs, and holiday sales, such as Christmas tree lots. TEMPORARY SALES EVENT does not include outdoor sales related to a RETAIL GOODS ESTABLISHMENT where such goods are part of the establishment's regular items offered for purchase, nor AUCTIONS of personal or real property.

**TEMPORARY USE PERMIT.** A permit that authorizes the TEMPORARY USE of land and STRUCTURES for certain events and STRUCTURES that are non-permanent in nature.

**TEMPORARY STRUCTURE.** Any STRUCTURE not designed to be permanently located, placed, or affixed in the place where it is or where it is intended to be placed.

**TEMPORARY USE.** A USE established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**TENANT.** The possessor or occupier of land or STRUCTURES.

**TOWER AND ANTENNA.** STRUCTURES and equipment used for the distribution of communications, electricity or similar utilities. TOWER AND ANTENNA excludes utility poles; amateur radio equipment and towers; and WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS.

**TOWER AND ANTENNA, WIRELESS TELECOMMUNICATIONS.** Towers, antennas, and ancillary STRUCTURES used to transmit and receive to transmit and/or receive telecommunications signals and AM broadcast station, transmitting communication in the 540 kHz to 1700 kHz band for public reception authorized by the FCC.

**TOWER AND ANTENNA - CLASS I.** A TOWER AND ANTENNA that does not exceed seventy-five (75) feet in height.

**TOWER AND ANTENNA - CLASS II.** A TOWER AND ANTENNA that exceeds seventy-five (75) feet in height.

**TRUCK WASH.** A BUSINESS for the washing and cleaning of large MOTOR VEHICLES such as semi-tractors and trailers, whether automatic, by hand, or self-service.

**U-PICK OPERATIONS.** An agricultural practice where the purchasers of farm crops enter the growing areas and harvest their own fruits, vegetables, or other agricultural products. Common U-PICK OPERATIONS include apple orchards, pumpkin patches, and berry farms.

**UNLAWFUL.** An activity, use, structure, or modification to the land that is conducted, erected, or present on a property in violation of this Ordinance or McHenry County building, stormwater, highway, or health ordinances.



**USE.**The purpose or activity for which land or a STRUCTURE is designed, arranged, or intended, or for which it is occupied or maintained.

**USE, CONDITIONAL.**See CONDITIONAL USE.

**USE, PERMITTED.**A USE permitted in a zoning district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Ordinance.

**VACATION RENTAL.** A furnished DWELLING UNIT, or portion thereof, that is rented or offered for rent for more than twelve (12) rental periods per calendar year or more than ninety (90) days per calendar year to guests on a nightly, daily, weekly, or any other occupancy period of less than thirty (30) consecutive days regardless of whether or not the DWELLING UNIT is occupied as a full time residence or whether or not the full time resident remains on the premise during the time that the DWELLING UNIT is utilized by guests, but where the operator does not provide guests with any additional services such as breakfast. A VACATION RENTAL serves the purpose of providing the opportunity for tourism or recreation to guests similar to a HOTEL/MOTEL or BED AND BREAKFAST. A VACATION RENTAL does not serve the purpose of allowing guests to establish a permanent or short term residence. (See BOARDING HOUSE.)

**VARIATION.** A means of relief from the application of the provisions of this Ordinance that create practical difficulties or particular hardships.

**VARIATION, ADMINISTRATIVE.** A VARIATION granted by the Zoning Enforcement Officer when certain conditions are met, as specified in § 16.20.020E.2. (Administrative Variation) of this Ordinance.

**VARIATION, ZONING.** A VARIATION granted by the County Board after a public hearing and recommendation by the McHenry County Hearing Officer or Zoning Board of Appeals, as specified in § 16.20.020E.3. (Zoning Variation) of this Ordinance.

**VETERINARY CLINIC.** A FACILITY where medical care is given to animals and where animals may be boarded overnight, if required for medical purposes. A small animal veterinarian provides medical care to domesticated companion animals, such as dogs, cats, birds, rabbits, and reptiles. A large animal veterinarian provides medical care to farm and ranch animals and other large non-domesticated animals.

**WALL.** A constructed solid barrier of concrete, stone, brick, tile, or similar type of material that closes, marks, or borders a field, yard, or LOT or PARCEL, and that limits visibility and restricts the flow of air and light.

**WAREHOUSE.** A FACILITY for the storage and distribution of manufactured products, supplies, and equipment.

**WATERCOURSE.** Any natural or artificial stream, river, draw, creek, ditch, channel, canal, conduit, culvert, drain, waterway, swale, gully, ravine, or wash in which water flows in a definite direction, either continuously or intermittently, and which has a definite channel, bed, and banks, and shall include any area adjacent thereto, subject to inundation by reasons of overflow or floodwaters.

**WATERSHED.**A geographic area that collects, concentrates, and contributes STORMWATER runoff to a given point on a waterway.

**WATERSHED PLAN.**A document that describes the water resource assessments, management strategies and restoration and protection actions, and expected outcomes of those actions, for a particular drainage basin or watershed.

**WELL, OIL/GAS/WATER - COMMERCIAL.** A boring through the ground for the extraction of a natural resource such as ground water, natural gas, or petroleum for sale, including public water supply.

**WETLAND.** Land that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, under normal conditions, a prevalence of vegetation adapted for life in saturated soil conditions (known as hydrophytic vegetation). A WETLAND is identified based upon the three (3) attributes: 1) hydrology, 2) soils, and 3) vegetation as mandated by the current federal WETLAND determination methodology.

**WETLAND, FARMED.** A WETLAND that prior to December 23, 1985, was manipulated and used to produce an agricultural commodity, and on December 23, 1985, did not support woody vegetation and met the specified hydrologic criteria based on 7 CFR 12.2 [Title 7; Subtitle A; Part 12; Subpart A].

**WHOLESALE ESTABLISHMENT.** A FACILITY primarily engaged in selling and/or distributing merchandise to retailers, industrial, COMMERCIAL, institutional, or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND ENERGY SYSTEM.** A system for generating electrical energy from the wind comprised of a turbine and tower.

1. **WIND ENERGY SYSTEM, MICRO.** A freestanding WIND ENERGY SYSTEM with a SYSTEM HEIGHT of less than eighty (80) feet and having a SWEPT AREA less than five hundred (500) square feet.

2. **WIND ENERGY SYSTEM, MIDSIZE.** A freestanding WIND ENERGY SYSTEM that has a SYSTEM HEIGHT greater than eighty (80) feet and less than two hundred (200) feet or that has SWEPT AREA greater than five hundred (500) square feet and less than thirteen thousand seven hundred (13,700) square feet.

3. **WIND ENERGY SYSTEM, LARGE.** A freestanding WIND ENERGY SYSTEM that is two hundred (200) feet or more in SYSTEM HEIGHT or has a SWEPT AREA of thirteen thousand seven hundred (13,700) square feet or more.

**WIND ENERGY SYSTEM, BUILDING- MOUNTED.** A WIND ENERGY SYSTEM that is anchored to a BUILDING'S structural system.

**WIND ENERGY SYSTEM, FREESTANDING.** A WIND ENERGY SYSTEM installed on the ground.

**WIND ENERGY SYSTEM, GRID- CONNECTED.** A WIND ENERGY SYSTEM that is connected to an electric circuit served by an electric utility company, regardless of whether the intended use of the system is to generate electricity primarily for on-site use or primarily for sale to an electric utility company.

**WIND ENERGY SYSTEM, HORIZONTAL AXIS.** A system in which the main rotor shaft is oriented horizontally. Such systems have the blades attached to the main rotor shaft, and a generator is housed within a nacelle. All of these are situated at the top of the tower.

**WIND ENERGY SYSTEM, NET- METERED.** A WIND ENERGY SYSTEM with an approved net-metering agreement with the utility.

**WIND ENERGY SYSTEM, VERTICAL AXIS.** A system in which the main rotor shaft is oriented vertically. Such systems operate on two basic aerodynamic principles; either lift (e.g., Darrieus types) or drag (e.g., Savonius types). Certain hybrids are configured to utilize both.

**WINERY/BREWERY/DISTILLERY.** A FACILITY for the production of wine, beer, or spirits. If permitted by County liquor licenses, a WINERY/BREWERY/DISTILLERY may include ancillary uses, such as tasting rooms, and retail sale of wines, beers, and spirits produced on-site.

**WINDROW.** An elongated pile of solid waste or COMPOSTING material constructed to promote COMPOSTING.

**WOODLANDS.** Landscapes with native tree canopy covering more than fifty percent (50%) of the surface area.

**YARD.** The area of a lot or parcel between the principal building and the adjoining lot lines.

**YARD, EFFECTIVE REAR.** The YARD that extends from the closest point of the rear of the principal building to the rear lot line.

**YARD, EFFECTIVE SIDE.** The YARD that extends from the closest point of the side of the principal building to the interior side lot.

**YARD, EFFECTIVE STREET.**The YARD that extends from the closest point of the front and corner side building lines of the principal building to the front and corner side lot lines. A yard that abuts an alley is not an effective street yard.

**ZONING AMENDMENT - TEXT (ZONING TEXT AMENDMENT/TEXT AMENDMENT).**A change, approved by the County Board, to the text of this Ordinance.

**ZONING AMENDMENT - MAP (ZONING MAP AMENDMENT/MAP AMENDMENT).**A change, approved by the County Board, to the boundaries of the zoning districts of the McHenry County Official Zoning Map.

**ZONING APPEAL.** An appeals process for the review of decisions of the Zoning Enforcement Officer.

**ZONING INTERPRETATION.** A process for a written interpretation of the provisions of this Ordinance.

**ZONING LOT.** See LOT, ZONING.

**ZOO.** A FACILITY in which animals are confined within enclosures, displayed to the public, and may also be bred and studied. A ZOO may include ancillary uses, such as RESTAURANTS, LABORATORIES, and veterinary offices.

## CHAPTER 16.12: ORDINANCE ADMINISTRATORS

### Section

- 16.12.010 County Board
- 16.12.020 Zoning Board of Appeals
- 16.12.030 Hearing Officer
- 16.12.040 Staff Plat Review Committee
- 16.12.050 Zoning Enforcement Officer

#### § 16.12.010 COUNTY BOARD.

- A. The County Board of McHenry County, referred to within this Ordinance as the "County Board," has the following powers, pursuant to this Unified Development Ordinance:
1. To make final decisions on zoning text and map amendment applications.
  2. To make final decisions on variation applications.
  3. To make final decisions on conditional use permit applications.
  4. To make final decisions on map corrections.
  5. To make final decisions on final plats of subdivision.
  6. To make final decisions on planned unit development applications.
- B. The Planning, Environment, and Development Committee of the County Board referred to within this Ordinance as the "Planning and Development Committee" has the following powers, pursuant to this Unified Development Ordinance:
1. To make final decisions on preliminary plats of subdivision.
  2. To make recommendations on final plats of subdivision.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 3.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.12.020 ZONING BOARD OF APPEALS.

The Zoning Board of Appeals has the following powers, pursuant to this Unified Development Ordinance:

- A. To make recommendations on zoning map and text amendment applications.
- B. To make recommendations on applications for zoning variations submitted in conjunction with rezoning, conditional use permit, and planned unit development applications, or when the Hearing Officer is unavailable.
- C. To make recommendations on conditional use permit applications.
- D. To make recommendations on planned unit development applications.
- E. To make final decisions on zoning appeals.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 3.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.12.030 HEARING OFFICER.

The County Board may appoint a Hearing Officer. The Hearing Officer has the following powers, pursuant to this Unified Development Ordinance:

- A. To make recommendations on applications for zoning variations not submitted in conjunction with rezoning, conditional use permit, or planned unit development applications.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 3.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.12.040 STAFF PLAT REVIEW COMMITTEE.

- A. The Staff Plat Review Committee has the power and authority to review and recommend approval of subdivision plans and plats, and site plans that meet Ordinance requirements.
- B. The voting members of the Staff Plat Review Committee consist of the following County staff:
1. Director of the Department of Planning and Development.
  2. Zoning Enforcement Officer.
  3. Director of the Division of Transportation/County engineer.
  4. Director of Environmental Health.
  5. Chief Stormwater Engineer.
  6. Building Enforcement Officer, as defined by the building codes adopted by the County.
- C. The director of the Department of Planning and Development serves as the chair of the Staff Plat Review Committee.
- D. If a Staff Plat Review Committee member is unable to attend a scheduled meeting, he/she may send one (1) designated voting representative.
- E. For subdivision applications, additional non-voting ex-officio members of the Staff Plat Review Committee consist of the following:
1. Applicable township highway commissioner(s).
  2. Applicable fire chief(s).
  3. Applicable school superintendent(s).
  4. A representative of the nearest municipality within a one and one-half (1½) mile boundary of subject property or a representative of the municipality within one and one-half (1½) mile boundary of the subject property that is granted planning authority through an approved intergovernmental boundary agreement.

If an ex-officio member is unable to attend a scheduled meeting, he/she may send an alternate representative. Ex-officio members provide information to the applicant and voting members regarding design of the subdivision and/or site plan and requirements for the ex-officio member's signature of the plat, if required.

F. The Staff Plat Review Committee has the following powers, pursuant to this Unified Development Ordinance:

1. To make final decisions on sketch plans of subdivision.
2. To make recommendations on preliminary plats of subdivision.
3. To make recommendations on final plats of subdivision.
4. To review and make final decisions on site plan review.
5. To review and make final decisions on technical adjustments.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 3.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.12.050 ZONING ENFORCEMENT OFFICER.**

The Zoning Enforcement Officer shall be the director of the Department of Planning and Development, or his/her designee. The Zoning Enforcement Officer has the following powers, pursuant to this Unified Development Ordinance:

- A. To review and make decisions on zoning interpretations.
- B. To review and make decisions on applications for sign permits.
- C. To review and make decisions on temporary use permits.
- D. To conduct inspections of structures or the use of land to determine whether there is compliance with this Ordinance, and, in case of any violation, order corrective action.
- E. To classify new or unclassified uses under § 16.32.060D. (Zoning District Uses) of this Ordinance.
- F. To delegate administrative tasks to other staff.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 3.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## **CHAPTER 16.16: ZONING APPLICATION PROCESS**

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### Section

- 16.16.010 Purpose
- 16.16.020 Application
- 16.16.030 Notice
- 16.16.040 Public hearing
- 16.16.050 Voting meetings

#### **§ 16.16.010 PURPOSE.**

The purpose of this chapter is to outline the general application, notice, and public hearing procedures for zoning applications and approvals found within this Ordinance.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 4.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.16.020 APPLICATION.**

##### *A. Authorization.*

1. A zoning application for a zoning variation, administrative variation, conditional use permit, site plan review, sign permit, temporary use permit, or zoning appeal may be filed by a property owner or other person expressly authorized by the owner in writing. A zoning application for a zoning interpretation or a zoning text or map amendment may be filed by a property owner, or other person expressly authorized by the owner, in a notarized letter of authorization, or by the Planning and Development Committee.

2. All applications, except applications initiated by the Planning and Development Committee, shall be brought in the name of the record title owner or the owner(s) of the beneficial interest through authorized agents. If a contract purchaser or tenant is involved, either with or without a contingent right, the contract purchaser or tenant shall be revealed and become a second party to the petition. Such contract purchaser or tenant may not file without the owner.

3. If application is made by the trustee or beneficiary of any land trust for any zoning map amendment, variation, or conditional use permit, the application and notice shall identify each beneficiary of such land trust by name and address and define his/her interest. All applications shall be verified by the applicant in the applicant's capacity as trustee or by the beneficiary(s) as a beneficial owner(s) of an interest in such land trust.

4. If application is made by a corporation or partnership for any zoning map amendment, variation, or conditional use permit, the application and notice shall identify the names and addresses of all officers and directors and all shareholders/stockholders owning an interest in excess of seven and one-half percent (7.5%).

5. For the purposes of this Ordinance, a property owner must demonstrate that the jurisdictional requirements of §16.04.030A. (Territorial Application) are met.

##### *B. Filing.*

1. All applications shall be filed with the Department of Planning and Development.

2. The application shall be on forms provided by the County and filed in the number of copies that the instructions require. If not specifically described within the form, all required plans shall be at a scale sufficient to permit a clear understanding of the proposal.

##### *C. Completeness.*

1. The Zoning Enforcement Officer will determine whether the application is complete. The Department of Planning and Development will notify the applicant that the application is complete or inform the applicant of any deficiencies. The Department of Planning and Development will take no steps to process the application until all deficiencies are remedied.

2. Once the application is determined to be complete, the application will be scheduled for consideration by the appropriate board, commission, or official. However, the appropriate board, commission, or official may also require the applicant to supplement the application with additional information.

D. *Fees.* Every application shall be accompanied by the required filing fee, as established by the County. The applicant is responsible for additional fees including, but not limited to, publication fees, court recorder fees, mailing fees, Natural Inventory Report fees, and Endangered Species Consultation (EcoCAT) Report fees. Applications will not be forwarded to the next stage in the approval process until all fees due are paid.

E. *Amendments to Applications.* Amendments to any complete application are only allowed upon approval of a petition to amend. The petition to amend shall be filed with Department of Planning and Development and decided by the body conducting the public hearing if the hearing has not yet been closed. If the hearing on the application has been closed, the petition to amend the application shall be filed with the McHenry County Clerk and decided upon by the County Board. If approved by the County Board, the body conducting the public hearing shall conduct a new public hearing and consider only evidence pertaining to the application amendment. The petitioner is responsible for the payment of fees for this new hearing and all notice requirements for a public hearing.

F. *Withdrawal of Application.* An applicant has the right to withdraw an application at any time prior to the decision on the application by a board, commission, or official. Requests for withdrawal shall be submitted in writing by the applicant.

G. *Successive Applications.*

1. Within one (1) year of the date of denial by the County Board, a subsequent application will not be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial.
2. If the application is resubmitted earlier than one (1) year from the date of denial, the subsequent application shall include a detailed statement of the grounds justifying its consideration.
3. The Zoning Enforcement Officer will make a determination as to whether the subsequent application is appropriate for resubmittal prior to the expiration of the one (1) year wait requirement. If the Zoning Enforcement Officer finds that there are no new grounds for consideration of the subsequent application, the request may summarily, and without hearing, be denied.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 4.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

§ 16.16.030 NOTICE.

A. *Summary of Notice Requirements.* The Table 16.16-1: *Notice Requirements for Public Hearing* summarizes required notice for zoning approvals that require a public hearing. Specific notice requirements are described below.

<b>TABLE 16.16-1: NOTICE REQUIREMENTS FOR PUBLIC HEARING</b>				
<b>Zoning Approval</b>	<b>Published Notice § 16.16.030B.</b>	<b>Mailed Notice § 16.16.030C.</b>	<b>Posted Notice § 16.16.030D.</b>	<b>Notice to Official Bodies § 16.16.030E.</b>
<b>TABLE 16.16-1: NOTICE REQUIREMENTS FOR PUBLIC HEARING</b>				
<b>Zoning Approval</b>	<b>Published Notice § 16.16.030B.</b>	<b>Mailed Notice § 16.16.030C.</b>	<b>Posted Notice § 16.16.030D.</b>	<b>Notice to Official Bodies § 16.16.030E.</b>
Zoning Text Amendments	X			
Zoning Map Amendments	X	X	X	X
Conditional Use Permit	X	X	X	X
Zoning Variation	X	X	X	X
Zoning Appeal	X			X
<i>NOTE: Administrative variations have specific notice requirements unique to that application, described in §16.16.030F. Hearings for the establishment of a Special Service Area are described in § 16.16.030G.</i>				

B. *Published Notice.*

1. Notice shall be published in a newspaper of general circulation published in the township or road district affected by the application. If there is no such newspaper, notice shall be published in a newspaper of general circulation published in McHenry County.
2. The County will publish notice no less than fifteen (15), nor more than thirty (30), calendar days in advance of the scheduled hearing date.
3. The notice shall include the following information:
  - a. The location of the property by street address and legal description. If no street address is available, then by locating such property with reference to any well-known landmark, highway, road, thoroughfare, or intersection. If the zoning application is for a map amendment only, the notice need not include a metes and bounds legal description if there is a common street address.
  - b. Permanent property index number and township name.
  - c. A statement of the present zoning on the parcel in question.
  - d. A brief statement of the purpose of the application.
  - e. The time, date, and location of the public hearing.
  - f. Whether the petitioner or applicant is acting for him/herself or in the capacity of agent, alter ego, or representative of an owner, and stating the name and address of the actual and true owner.
  - g. If the applicant is a corporation, the correct names and addresses of all officers and directors, and of all stockholders and shareholders owning any interest in excess of seven and one-half percent (7.5%) of all outstanding stock of such corporation.
  - h. If the applicant or the owner that he/she represents is a business or entity doing business under an assumed name, the name and residence of all true and actual owners of such business or entity.
  - i. If the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, the names and addresses of all partners, joint venturers, syndicate members, or members of the unincorporated voluntary association.
  - j. A statement that additional information regarding the petition is available on the McHenry County Department of Planning and Development website.

C. *Mailed Notice.*

1. Public hearings for zoning map amendment, zoning variation, and conditional use permit applications require mailed notice shall be given to all contiguous property owners. If the property is bounded by a public right-of-way, railroad, or linear waterway, notice is required to property owners abutting the public right-of-way directly across from the subject property. All property owners that comprise any contiguous agricultural conservation and protection areas, designated in accordance with the Illinois Agricultural Areas Conservation and Protection Act, shall also be given mailed notice. Notification shall be provided to the person who last paid taxes on the property in accordance with the records of the McHenry County Treasurer's Office.
2. The County will mail notice no less than fifteen (15), but no more than thirty (30), calendar days prior to the public hearing. Certified mail shall be used to establish proof of notification.
3. The notice shall include the following information:
  - a. The location of the property by legal description and street address. If no street address is available, then by locating such property with reference to any well-known landmark, highway, road, thoroughfare, or intersection.
  - b. Permanent property index number and township name.
  - c. A statement of the present zoning on the parcel in question.
  - d. A brief statement of the purpose of the application.
  - e. The time, date, and location of the public hearing.
  - f. Whether the petitioner or applicant is acting for him/herself or in the capacity of agent, alter ego, or representative of an owner, and stating the name and address of the actual and true owner.

g. If the applicant is a corporation, the correct names and addresses of all officers and directors, and of all stockholders and shareholders owning any interest in excess of seven and one-half percent (7.5%) of all outstanding stock of such corporation.

h. If the applicant or the owner that he/she represents is a business or entity doing business under an assumed name, the name and residence of all true and actual owners of such business or entity.

i. If the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.

j. A statement that additional information regarding the petition is available on the McHenry County Department of Planning and Development website.

4. Giving notice pursuant to this section is not construed to prevent the applicant from giving such additional notice as he/she may deem appropriate.

*D. Posted Sign Notice.*

1. An applicant is required to post a sign on the subject property. The sign will be provided by the Department of Planning and Development.

2. Notice shall be posted no less than fifteen (15), but no more than thirty (30), calendar days prior to the public hearing. The sign shall remain posted until the commencement of the public hearing.

3. The sign shall be placed on the principal road frontage and at a prominent location on the property near the public right-of-way, so that it is visible to passing pedestrians and motorists.

4. The applicant is required to provide proof of posting by filing an affidavit stating the time, date and place of posting four (4) business days prior to the hearing. Failure to file the required affidavit within the required four (4) business days may delay the scheduled hearing.

*E. Notice to Interested Official Bodies.*

1. The County will provide mailed notice to the following official bodies:

a. McHenry-Lake County Soil and Water Conservation District.

b. McHenry County Conservation District.

c. Villages and municipalities within one and one-half (1½) miles of the property.

d. Fire protection districts covering the property in question.

e. School districts covering the property in question, including McHenry County College.

f. Highway commissioners and supervisors for the townships in which the property is located.

g. Watershed groups with plans that have been accepted or adopted by the County Board covering the property in question.

h. Illinois Department of Natural Resources, as recommended and/or required in subsection E.4. below.

i. Drainage districts covering the property in question.

2. Notice shall be mailed no less than fifteen (15), but no more than thirty (30), calendar days prior to the public hearing. Certified mail shall be used to establish proof of notification.

3. Proof in the form of a paid receipt for application to the McHenry-Lake County Soil and Water Conservation District or a current Natural Inventory Report shall be provided before a public hearing date will be set. The hearing date will be no less than thirty (30) calendar days subsequent to the date of application to the McHenry-Lake County Soil and Water Conservation District.

4. Property owners applying for a zoning map amendment are encouraged to apply for an Illinois Department of Natural Resources Endangered Species Consultation (EcoCAT) Report. Property owners applying for conditional uses that will disturb large areas of land or sensitive areas, such as wetlands or floodplains, are required to apply for an Illinois Department of Natural Resources Endangered Species Consultation (EcoCAT) Report, as determined by the Zoning Enforcement Officer.

*F. Administrative Variation Notice.*

1. Notice of an administrative variation shall be sent by certified mail to all contiguous landowners. If the property is bounded by a public right-of-way, railroad, or linear waterway, notice is required to property owners abutting the public right-of-way directly across from the subject property. Notification shall be provided to the person who last paid taxes on the property in accordance with the records of the McHenry County Treasurer's Office.

2. The notice shall include the following information:

a. The location of the property by legal description and street address. If no street address is available, then by locating such property with reference to any well-known landmark, highway, road, thoroughfare, or intersection.

b. Permanent property index number and township name.

c. A statement of the present zoning on the parcel in question.

d. A brief statement of the purpose of the application.

e. Directions for objecting to the Administrative Variation in accordance with §16.20.020E.2.b.

*G. Establishment a Special Service Area (SSA) Notice.*

1. Notice for the establishment of an SSA shall be sent to all landowners within the proposed SSA by certified mail no less than ten (10) days prior to the date of the hearing. Notification shall be provided to the person who last paid taxes on the property in accordance with the records of the McHenry County Treasurer's Office.

2. Notice for the establishment of an SSA shall be published in a newspaper of general circulation in McHenry County no less than fifteen (15) days prior to the date of the hearing.

3. Notice for the establishment of an SSA shall include the following information:

a. The time, date, and location of the public hearing.

b. The boundaries of the area by legal description and, where possible, by street location.

c. The permanent property index number of each parcel located within the area.

d. The nature of the proposed special services to be provided within the special service area and a statement as to their purposes.

e. The proposed amount of the tax levy for special services for the initial year for which taxes will be levied within the special service area.

f. A statement that all interested persons, including all landowners within the SSA, will be given an opportunity to be heard at the hearing regarding the tax levy and an opportunity to file objections to the amount of the tax levy.

g. The maximum rate of taxes to be extended within the SSA in any year and the maximum number of years taxes will be levied, if a maximum number of years is to be established.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 4.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.16.040 PUBLIC HEARING.**

A. *Location of Public Hearings.* Public hearings are held in the McHenry County Government Center. The owner of any property affected by a proposed map amendment may request in writing to the Department of Planning and Development that the public hearing be held in the township affected by the map amendment. Any additional costs incurred

as a result of changing the location of the hearing, including costs for re-notification, are the responsibility of the requester. Property located in two (2) or more townships will be considered as existing in that township where the major portion of the property is located.

**B. Public Hearing Procedures.**

1. All public hearings are subject to the Illinois Open Meetings Act.
2. The procedure for public hearings is as follows:
  - a. Call to order and reason or purpose for hearing.
  - b. Petition will be read at the discretion of the chairperson.
  - c. Introduction of board members by name of township in which he/she resides.
  - d. Recognition of fees, publication, and posting of property and proof of submittal of Endangered Species Consultation (EcoCAT) Report from the Illinois Department of Natural Resources, as required or recommended in § 16.16.030E. (Notice to Interested Official Bodies).
  - e. Recognition of petitioner and witnesses. Swearing in of persons, including staff, who will present testimony.
  - f. Citation of Board proceedings.
  - g. Recognition of public and observers.
  - h. Petitioner(s) present testimony and evidence.
  - i. Cross-examination by board members, staff, public, and observers.
  - j. Staff and the public, who are under oath, present testimony and evidence.
  - k. Cross examination of staff and public testimony by board members and petitioner.
  - l. Summary statements by petitioner or his/her attorney.
  - m. Receipt of McHenry-Lake Soil and Water Conservation District Natural Resource Inventory Report is acknowledged.
  - n. Time, date, and place of the voting meeting is announced. The voting meeting may occur immediately following the public hearing or may be conducted at a separate location, date, and time.
  - o. While additional testimony is not accepted at the voting meeting, unless requested by the Zoning Board of Appeals, the public hearing remains open until the Zoning Board of Appeals has voted to recommend approval or denial of the petition.

**C. Continuances.** The chairperson may continue the public hearing. In order to reopen the hearing, no new notice is required if a hearing is continued to a date specified, provided that a public announcement of the future date, time, and place of the continued hearing is made at the hearing and placed in the minutes. If the hearing is adjourned, rather than continued to a date specified, in order to reopen the hearing all notice shall be given that would have been required for the initial public hearing.

**D. Evidence and Testimony.**

1. All interested parties may appear for themselves or be represented by a person of their choosing. Persons appearing on the behalf of other individuals or groups shall furnish written confirmation that they are authorized to do so.
2. Written statements will be accepted prior to the hearing to be entered into the record.
3. All testimony and evidence shall be given under oath or by affirmation. Any person may appear at a hearing and submit evidence, upon receiving recognition from the chairperson. Each person who submits evidence shall identify himself/herself and their address. Any person may ask relevant questions of other witnesses, but only through the chairperson and at the discretion of the chairperson.
4. The chairperson may limit testimony to a specific amount of time to provide a reasonable opportunity for all interested persons to testify.
5. The body conducting the hearing is not bound by strict rules of evidence, but the chairperson may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 4.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.16.050 VOTING MEETINGS.**

**A. Location and Time.**

1. The voting meeting may occur immediately following the public testimony or may be conducted at a separate location, date, and time as announced during the public hearing in accordance with § 16.16.040B.2.n. (Public Hearing Procedures).

**B. Voting Meeting Procedures.**

1. The procedure for voting meeting is as follows:
  - a. Call to order and purpose of voting meeting.
  - b. Reading and approval of minutes of the previous meeting as necessary.
  - c. Deliberation and voting on petitions on the agenda. No new testimony or evidence can be presented during this meeting unless requested by the Zoning Board of Appeals. The public hearing for each petition shall be deemed to be closed upon the Zoning Board of Appeals' vote to recommend approval or denial of the petition.
  - d. Unfinished business.
  - e. New business.
  - f. Adjournment.

**C. Written Protest.** Following the vote of the Zoning Board of Appeals and the closing of the hearing, objectors may have the right to file a written protest to the County Board in accordance with Chapter 16.20 (Zoning Applications).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 4.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

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## CHAPTER 16.20: ZONING APPLICATIONS

Section

- 16.20.010 Zoning map and text amendment
- 16.20.020 Variation
- 16.20.030 Variation to wireless telecommunications standards
- 16.20.040 Conditional use
- 16.20.050 Site plan review



- 16.20.060 Map correction
- 16.20.070 Zoning interpretation
- 16.20.080 Sign permit
- 16.20.090 Zoning appeal
- 16.20.100 Temporary use permit

**§ 16.20.010 ZONING MAP AND TEXT AMENDMENT.**

A. *Purpose.* The regulations imposed and the districts created by this Ordinance may be amended from time to time in accordance with this section. This process for amending the text or the map is intended to permit modifications in response to changed conditions or changes in County policy.

B. *Initiation.* A zoning application for a zoning text or map amendment may be filed by a property owner, or other person expressly authorized by the owner, in a notarized letter of authorization, or by the Planning and Development Committee.

C. *Authority.* The County Board, after receiving a recommendation from the Zoning Board of Appeals, will take formal action on requests for zoning text or map amendments. Zoning text amendments can be applied for only in relation to the zoning standards of this Ordinance, including signs. Standards for subdivisions do not require the zoning text amendment process for changes. Chapter 16.24 (Subdivision Applications) and Chapter 16.76 (Subdivision Standards) can be amended directly by the County Board.

D. *Procedure.* All applications are filed with the Department of Planning and Development in accordance with the requirements of §16.16.020 (Application). Once it is determined that the application is complete, the Department of Planning and Development will schedule the application for consideration by the Zoning Board of Appeals. Amendments initiated by the County also require an application.

1. *Action by the Zoning Board of Appeals.*

a. The Zoning Board of Appeals will conduct a public hearing on a proposed zoning amendment in accordance with §16.16.040 (Public Hearing) within ninety (90) calendar days after receipt of a complete application. Notice for the public hearing shall be in accordance with § 16.16.030 (Notice).

b. The Zoning Board of Appeals will evaluate the application, based upon the evidence presented at the public hearing, pursuant to each of the applicable standards in subsection E. below (Approval Standards for Zoning Amendments). For zoning text amendments, the Zoning Board of Appeals may recommend approval, modified approval, or denial of the application. For zoning map amendments, the Zoning Board of Appeals may recommend approval or denial of the application.

c. The Department of Planning and Development shall prepare and submit an ordinance to the County Board for the next available meeting in accordance with the County Board rules.

2. *Action by the County Board.*

a. The County Board will consider the application upon receiving the Zoning Board of Appeals recommendation. However, the County Board shall not act on a map amendment until thirty (30) calendar days following the close of the public hearing. The County Board shall take action in the form of approval or denial on applications for zoning text and map amendments. The County Board shall take action within one hundred eighty (180) calendar days of the close of the public hearing, unless an extension of time has been authorized by the County Board prior to the expiration of the one hundred eighty (180) calendar day timeframe. If the County Board does not act within the one hundred eighty (180) calendar day timeframe, plus any authorized extension of time, the application is deemed denied.

b. A majority vote of all the members of the County Board is required to pass a zoning text or zoning map amendment, unless any of the following conditions apply:

(1) A favorable vote of three-fourths (¾) of all the members of the County Board is required to pass a zoning map amendment if a written protest signed by the owner(s) of at least twenty percent (20%) of the land to be rezoned is filed with the County Clerk.

(2) A favorable vote of three-fourths (¾) of all the members of the County Board is required to pass a zoning map amendment if a written protest signed by the owner(s) of land contiguous to or located directly across a public right-of-way from at least twenty percent (20%) of the perimeter of the land to be rezoned is filed with the County Clerk.

(3) A favorable vote of three-fourths (¾) of all the members of the County Board is required to pass a zoning map amendment if the land affected by a proposed amendment lies within one and one-half (1½) miles of the limits of a zoned municipality and a resolution objecting to the amendment is passed by the municipal board/council and filed with the McHenry County Clerk.

(4) A favorable vote of three-fourths (¾) of all the members of the County Board is required to pass a zoning map amendment or a text amendment if a township plan commission objects to a map amendment or a text amendment affecting an unincorporated area of the township and the township board of trustees submits its written objection to the County Board. The letter of objection shall be delivered to the County Board chairman with a copy sent to the Zoning Enforcement Officer within thirty (30) calendar days of the close of the Zoning Board of Appeals public hearing.

(5) A favorable vote of three-fourths (¾) of all the members of the County Board is required to pass a zoning text amendment if a written protest against the proposed text amendment is signed by five percent (5%) of property owners in the County and filed with the McHenry County Clerk.

A copy of the written protest or objection must be served by the protestor or objector on the applicant for the proposed amendment and a copy on the applicant's attorney, if any, by certified mail at the address of the applicant and attorney shown in the zoning application and the proof of delivery shall be filed with the McHenry County Clerk prior to the County Board meeting where the zoning map or text amendment is to be considered.

E. *Approval Standards for Zoning Amendments.* The Zoning Board of Appeals recommendation and the County Board decision shall consider the following standards. However, the Zoning Board of Appeals' recommendation and the County Board's decision on any zoning text or map amendment is not controlled by any one factor under the following standards, but rather the approval of amendments is based on a balancing of the factors under each standard.

1. *Approval Standards for Map Amendments.*

- a. The compatibility of the proposed zoning with the existing use and zoning of nearby property.
- b. The extent to which property values of the subject property are diminished by the existing zoning.
- c. The extent to which the public health, safety, and welfare of the public are promoted by the existing zoning.
- d. The relative gain to the public, as compared to the hardship imposed upon the applicant, if the proposed zoning is denied.
- e. The suitability of the property for the purposes for which it is presently zoned.
- f. The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.
- g. The community need for the proposed use.
- h. The consistency of the proposed amendment with the adopted comprehensive plan and the appropriateness of the comprehensive plan to the subject property.

2. *Approval Standards for Text Amendments.*

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

F. *Limitations on Denials.* No application for an amendment which has been denied by the County Board may be resubmitted to the Zoning Board of Appeals for a period of one (1) year from that date of denial, except as described in § 16.16.020G. (Successive Applications).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.20.020 VARIATION.**



A. *Purpose.* The variation process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships. Variations for wireless telecommunications standards are processed according to § 16.20.030 (Variation To Wireless Telecommunications Standards).

B. *Initiation.* A property owner in the County, or person expressly authorized by the owner in writing, may request a variation for that property.

C. *Applicability of Zoning and Administrative Variations.* This Ordinance allows for two (2) types of variations. An administrative variation may be approved by the Zoning Enforcement Officer and a zoning variation may only be approved by the County Board in accordance with the procedures of this section. Variations for wireless telecommunications standards are processed according to § 16.20.030 (Variation To Wireless Telecommunications Standards).

D. *Authority.* Variations are authorized by the terms of this Ordinance. Zoning variations are authorized by the County Board. The Zoning Enforcement Officer is authorized to grant certain administrative variances. Variations can be applied for only in relation to the zoning standards of this Ordinance, which includes sign regulations. Exemptions to standards for subdivisions are subject to the process contained in § 16.24.050 (Exemptions from Subdivision Standards).

E. *Procedure.*

1. *Application.* All applications shall be filed with the Department of Planning and Development in accordance with the requirements in § 16.16.020 (Application).

2. *Administrative Variation.* The Zoning Enforcement Officer will review and approve applications that meet the following standards:

a. Variation applications of ten percent (10%) or less of the bulk or setback regulations for principal structures, accessory structures, or signs. Encroachments allowed under Table 16.20-1: Permitted Encroachments are ineligible for administrative variation. All other variations are considered zoning variations.

b. No written objections have been received. If any noticed property owner files a written objection to the administrative variation within fifteen (15) calendar days of receipt of such notice, the variation shall be denied. The property owner may apply for a Zoning Variation to be considered by the Hearing Officer or Zoning Board of Appeals.

3. *Zoning Variation.*

a. Applications for zoning variations that are filed in conjunction with an application of a conditional use permit or zoning map amendment shall be considered by the Zoning Board of Appeals simultaneously with the conditional use permit or zoning map amendment. Applications for zoning variations that are not filed in conjunction with an application for a conditional use permit or zoning map amendment shall be considered by the Hearing Officer. Such applications may be considered by the Zoning Board of Appeals only in the event that the Hearing Officer is unavailable.

b. The Zoning Board of Appeals or Hearing Officer will then conduct a public hearing on a zoning variation application in accordance with § 16.16.040 (Public Hearing). Notice for the public hearing shall be in accordance with § 16.16.030 (Notice).

c. The Zoning Board of Appeals or Hearing Officer will evaluate the application, based upon the evidence presented at the public hearing, pursuant to the applicable standards in subsection F. below (Approval Standards for Zoning Variations).

d. The Zoning Board of Appeals or Hearing Officer will recommend approval, modified approval or denial of the application within ninety (90) calendar days of receipt of the complete application.

e. Following the recommendation of the Zoning Board of Appeals or Hearing Officer, the Department of Planning and Development shall prepare an ordinance incorporating the findings and recommendations of Zoning Board of Appeals or Hearing Officer.

f. The Department of Planning and Development shall submit the ordinance and Zoning Board of Appeals or Hearing Officer recommendation to the County Board for the next available meeting in accordance with the County Board rules. The applicant shall pay all outstanding fees prior to the ordinance's submittal to the County Board.

g. *Action by the County Board.*

(1) The County Board shall take action within one hundred eighty (180) calendar days of the close of the public hearing, unless an extension of time has been authorized by the County Board prior to the expiration of the one hundred eighty (180) calendar day timeframe. The County Board may take action in the form of approval, modified approval, or denial. If the County Board does not act within the one hundred eighty (180) calendar day timeframe, plus any authorized extension of time, the application is deemed denied.

(2) A simple majority vote of the members of the County Board present at a meeting is required to pass a variation, unless any of the following conditions apply:

(a) A favorable vote of three-fourths ( $\frac{3}{4}$ ) of all the County Board members is required to pass a variation if the Hearing Officer recommended denial of the variation.

(b) A favorable vote of three-fourths ( $\frac{3}{4}$ ) of all the County Board members is required to pass a variation if the variation requested did not receive five favorable votes from the Zoning Board of Appeals.

(c) A favorable vote of three-fourths ( $\frac{3}{4}$ ) of all the County Board members is required to pass a variation if the township plan commission objects to the variation and the township board of trustees submits a written objection to the County Board. The letter of objection must be signed by a majority of the township trustees and shall be delivered to the County Board via the County Board chairman with a copy sent to the Zoning Enforcement Officer within fifteen (15) days after the close of the public hearing.

4. *Conditions and Restrictions.* The Zoning Board of Appeals or Hearing Officer may recommend and the County Board may impose conditions and restrictions upon the location, construction, design, and use of the property seeking a zoning variation that are necessary to protect the public interest and adjacent property. Failure to maintain such conditions or restrictions constitutes grounds for revocation of the variation. The terms of relief granted, including any conditions or restrictions, shall be specifically set forth in the recommendation and approval.

F. *Approval Standards for Zoning Variations.* No zoning variation from the provisions of this Ordinance may be granted unless the Zoning Board of Appeals or Hearing Officer and County Board makes specific findings that the request meets each of the standards imposed by this section. These standards are as follows:

1. The particular surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.

2. The conditions upon which the application for a variation are based are unique to the property for which the variation is sought and are not generally applicable to other property within the same zoning district.

3. The purpose of the variation is not based exclusively upon a desire to increase the monetary gain realized from the property.

4. The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.

5. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.

7. That the granting of the variation requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land or structure of the same zoning district.

G. *Variation Less Than Requested.* A variation less than that requested may be granted when the record supports the applicant's right to some relief, but not to the entire relief requested.

H. *Revocation of Variation.*

1. Any approved variation shall be null and void if a building permit is not obtained or any structure not requiring a building permit is not erected within one (1) year from the date of approval.

2. The Zoning Enforcement Officer may grant one (1) extension of this period, valid for no more than one hundred eighty (180) additional calendar days, upon written application and with good cause shown, without notice or hearing.

I. *Limitations on Denials.* No application for a variation, which has been denied, may be resubmitted to the Zoning Enforcement Officer, Zoning Board of Appeals, or Hearing Officer for a period of one (1) year from that date of denial, except as described in § 16.16.020G. (Successive Applications).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.2; Ord. O-201803-ZBA-10-08,

**§ 16.20.030 VARIATION TO WIRELESS TELECOMMUNICATIONS STANDARDS.**

A. *Granting of Wireless Telecommunications Facilities Variations.* The County Board may grant variations for any of the regulations, conditions, and restrictions of this section after one (1) public hearing on the proposed variation, by a favorable vote of a simple majority of the members present at a meeting held no later than seventy-five (75) calendar days after submission of an application by the telecommunications carrier. If the County Board fails to act on the application within seventy-five (75) calendar days after submission, the application is deemed approved. The variation standards and process in this section are required in place of the variation provisions of § 16.20.020 (Variation). Modifications to wireless telecommunications facilities by an amount less than what is defined as a "substantial change" by the Federal Communications Commission under 47 CFR 1.40001 (Wireless Facility Modifications) do not require a variation.

B. *Telecommunications Facilities Variation Applications.*

1. Application for a variation shall be filed with the Hearing Officer appointed by the County Board, using forms available from that officer. A hearing date for a variation will be set by the Hearing Officer when all of the filing requirements of this Ordinance have been met. The Hearing Officer will not consider the sufficiency of the application and evidence until after a public hearing has been held and all parties have been given an opportunity to address such application, evidence, and documents. After said hearing, the Hearing Officer will make a finding as to the sufficiency of the application, evidence, documents, and testimony and report this finding in the recommendation to the County Board.

2. Applications shall contain at a minimum, the nature of the request, a legal description, permanent parcel number and common description of the property, a statement of the present zoning of the subject property and surrounding properties, the current address of the petitioners, and a verification by the owners or their authorized agent attesting to the truth and correctness of all facts, statements, and information presented. In addition, applications for variations shall contain a survey of the property by a surveyor registered in the State of Illinois, including the location of the proposed tower. The legal description in the survey shall coincide with the legal description on the petition, legal notices, and ordinance, when presented.

3. All petitions shall be brought in the name of the record title owner, or the owner or owners of the beneficial interest, through their attorneys or authorized agents. If a contract purchaser or tenant is involved, either with or without a contingent right, the contract purchaser or tenant shall be revealed and become a second party to the petition, but such contract purchaser or tenant may not file without owner.

4. If application is made by the trustee or beneficiary of any land trust for a variation, the application and notice shall identify each beneficiary of such land trust by name and address and define his interest therein. All such applications shall be verified by the applicant in the applicant's capacity as trustee or by the beneficiary(s) as beneficial owner(s) of an interest in such land trust.

C. *Telecommunications Facilities Variation Standards.* In considering an application for a variation, the Hearing Officer and County Board will consider the following, and no other matters:

1. Whether, but for the granting of a variation, the service that the telecommunications carrier seeks to enhance or provide with the proposed facility will be less available, impaired or diminished in quality, quantity, or scope of coverage.

2. Whether the conditions upon which the application for variations is based are unique in some respect or, if not, whether the strict application of the regulations would result in a hardship on the telecommunications carrier.

3. Whether a substantial adverse effect on public safety will result from some aspect of the facility's design or proposed construction, but only if that aspect of design or construction is modifiable by the applicant.

4. Whether there are benefits to be derived by the users of the services to be provided or enhanced by the facility and whether public safety and emergency response capabilities would benefit by the establishment of the facility.

5. The extent to which the design of the proposed facility reflects compliance with this Ordinance.

D. *Telecommunications Facilities Variation Notice of Hearing.* Notice of public hearing shall be published at least fifteen (15) days prior to the hearing in a newspaper of general circulation published in the County by the applicant and sent by certified mail at least fifteen (15) days prior to the hearing to the owners of record of all property that is adjacent to the lot upon which the facility is proposed to be sited by the applicant. The notice shall contain:

1. The particular location of the real estate for which the variation is requested by legal description; street address, or, if no street address exists, then by locating such real estate with reference to any well-known landmark, highway, road, thoroughfare, or intersection; permanent property index number; and township name.

2. Whether the petitioner or applicant is acting for himself or in the capacity of an agent, alter ego, or representative of a owner and stating the name and address of the actual and true owner.

3. Whether petitioner or applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders and shareholders owning any interest in excess of seven and one-half percent (7.5%) of all outstanding stock of such corporation.

4. Whether the petitioner or applicant or his owner, if other than applicant, is a business or entity doing business under any assumed name, and if so, the name and residence of all true and actual owners of such business or entity.

5. Whether the petitioner or applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.

6. A statement of the present zoning on the parcel in question.

7. A brief statement of the proposed variation.

8. The time, date, and location of the hearing.

E. *Hearing Process.* The following additional requirements apply to the public hearing held on an application to the wireless telecommunications standards:

1. A hearing shall be held on any proposed variation in the County Government Center.

2. No more than one (1) public hearing will be held or required.

3. Filing fees for variation hearings are in accordance with the fee schedule adopted by the County Board and shall cover all costs.

4. The public hearing will be conducted by the Hearing Officer in the manner established by the Hearing Officer.

5. A detailed record of the proceedings shall be taken by a court reporter present at the hearing to transcribe the testimony.

6. The recommendation of the Hearing Officer to the County Board shall be supported by written findings of fact upon each of the authorized matters for consideration.

7. *Action by the County Board.*

a. Variations may be granted by the County Board upon receipt of a report and recommendation from the Hearing Officer, by a favorable vote of a simple majority of the members present at a meeting held no later than seventy-five (75) calendar days after submission of an application.

b. Failure of the County Board to act on the application within seventy-five (75) calendar days after submission will deem the application approved.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.20.040 CONDITIONAL USE.**

A. *Purpose.* This Ordinance divides the County into zoning districts, where, within each district, the use of land and structures are substantially uniform. It is recognized, however, that there are certain uses that, because of their unique characteristics, require individual consideration of the appropriateness of that use at a particular location.

B. *Initiation.* A property owner or other person expressly authorized by the owner in writing may file an application to use such land for one (1) or more of the conditional uses provided for in this Ordinance within the zoning district in which the land is situated or to amend an existing conditional use permit.

C. *Authority.* The County Board, after receiving a recommendation from the Zoning Board of Appeals, will take formal action on conditional use permit applications.

D. *Procedure.* Applications for a conditional use permits are filed with the Department of Planning and Development. All applications for a conditional use permits shall be filed in accordance with the requirements in § 16.16.020 (Application). Once it is determined that the application is complete, the Department of Planning and Development will schedule the application for consideration by the Zoning Board of Appeals.

1. *Action by the Staff Plat Review Committee.* All conditional use permits require a site plan. The site plan shall be submitted, reviewed, and approved by the Staff Plat Review Committee in accordance with this § 16.20.040 (Conditional Use) prior to final action by the Zoning Board of Appeals.

2. *Action by the Zoning Board of Appeals.*

a. The Zoning Board of Appeals will conduct a public hearing on a proposed conditional use in accordance with §16.16.040 (Public Hearing) within one hundred eighty (180) calendar days after receipt of a complete application. Notice for the public hearing shall be in accordance with § 16.16.030 (Notice).

b. The Zoning Board of Appeals will evaluate the application, based upon the evidence presented at the public hearing, pursuant to the applicable standards in subsection E. below (Approval Standards for Conditional Use Permits).

c. The Zoning Board of Appeals will recommend approval or denial of the application. The Zoning Board of Appeals may recommend conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary for the protection of the public interest.

d. Following the recommendation of the Zoning Board of Appeals, the Department of Planning and Development shall prepare an ordinance incorporating the findings and recommendations of Zoning Board of Appeals.

e. The Department of Planning and Development shall submit the ordinance and Zoning Board of Appeals recommendation to the County Board for the next available meeting in accordance with the County Board rules. The applicant shall pay all outstanding fees prior to the recommendation's submittal to the County Board.

3. *Action by the County Board.*

a. The County Board shall take action within one hundred eighty (180) calendar days of the close of the public hearing, unless an extension of time has been authorized by the County Board prior to the expiration of the one hundred eighty (180) calendar day timeframe. The County Board may take action in the form of approval or denial. If the County Board does not act with the one hundred eighty (180) calendar day timeframe, plus any authorized extension of time, the application is deemed denied.

b. In granting any conditional use permit, the County Board may impose conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary for the protection of the public interest. The County Board may require such documentation and guarantees, as it deems necessary, to ensure compliance with stipulated conditions.

c. A simple majority vote of the members of the County Board present at a meeting is required to pass a conditional use permit.

E. *Approval Standards for Conditional Use Permits.* No conditional use permit may be granted unless the Zoning Board of Appeals and County Board makes specific written findings that the request meets each of the standards imposed by this section. These standards are as follows:

1. That the petitioner has demonstrated the ability to meet any applicable standards contained in Chapters 16.56 (Use Standards) and 16.60 (Site Development Standards).
2. That the site shall be so situated that the proposed use is compatible with the existing or planned future development of the area.
3. That the establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.
4. That the conditional use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
5. That the conditional use shall not substantially diminish and impair property value within the neighborhood.
6. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
7. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on public streets.
8. That the conditional use shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located.
9. That the conditional use is reasonably in the interest of the public welfare.
10. That adequate measures will be taken to provide protection to groundwater recharge and groundwater quality.

F. *No Presumption of Approval.* The listing of a use as a conditional use within a zoning district in Table 16.32-1: Zoning District Uses does not constitute an assurance or presumption that such conditional use will be approved. Rather, each proposed conditional use shall be evaluated on an individual basis, in relation to all applicable standards of this Ordinance. Such evaluation will determine whether approval of the conditional use is appropriate at the particular location and in the particular manner proposed.

G. *Establishment of Conditional Use.* No conditional use may be initiated or continued on any property until all conditions and all County permit requirements for the permitted conditional use and structures required for the conditional use are met.

H. *Expiration of Approved Conditional Use Permits.* Conditional use permits are valid for a period of ten (10) years, unless otherwise limited or permitted as part of the County Board approval. Any application for renewal of a conditional use permit must be filed before the expiration of such timeframe. In addition, subject to verification by the Zoning Enforcement Officer, a conditional use permit will expire under the following conditions. To re-establish the conditional use permit, a new application is required.

1. For conditional uses approved to occur within a structure yet to be constructed, the conditional use permit approval expires within two (2) years following the date of conditional use permit approval if a building permit has not been issued and construction has not commenced.

2. For conditional uses approved to occur within an existing structure that shall be modified to meet the applicable building code standard for the approved use, the conditional use permit approval expires within two (2) years following the date of conditional use permit approval if a building permit has not been issued and construction has not commenced.

3. For conditional uses approved to occur within existing structures which require no building modifications or for a parcel of land where no structure is planned, if the use is not established within one (1) year following the date of conditional use permit approval, the conditional use permit expires.

4. If a conditional use is discontinued for a continuous period of one (1) year, the conditional use permit will expire. When the conditional use granted is seasonal in nature and a disruption is due to the growing season or an act of God, such period is exempt from the calculation of discontinuation. In the case of an act of God, the property owner shall submit a written statement to the Zoning Enforcement Officer documenting the cause of the disruption.

I. *Revocation of Conditional Use Permits.*

1. A conditional use permit may be revoked by the County Board after a public hearing by the Zoning Board of Appeals and a finding that any of the provisions of this Ordinance or any of the terms and conditions of the conditional use permit approval have been violated.

a. The Zoning Enforcement Officer shall send written notice to property owner and/or operator to whom the conditional use permit approval was issued describing the reasons for revocation.

b. The Zoning Board of Appeals shall hold a public hearing on the revocation of the conditional use permit within sixty (60) calendar days after providing notice to the property owner and to a newspaper of general circulation in accordance with § 16.16.030B. (Published Notice).

c. The County Board shall take action within one hundred eighty (180) calendar days of the close of the public hearing, unless an extension of time has been authorized by the County Board prior to the expiration of the one hundred eighty (180) calendar day timeframe. The County Board may take action to approve or deny the revocation. If the County Board does not act with the one hundred eighty (180) calendar day timeframe, including any extension of time, the revocation is deemed denied.

2. A property owner granted conditional use permit approval may request in writing for the voluntary revocation of conditional use permit approval to the Zoning Enforcement Officer. Once the request is accepted and any applicable fees are paid, all conditional use activities shall cease and all conditional use structures shall be removed. If re-establishment is desired, a new application is required.

J. *Limitations on Denials.* No application for a conditional use permit, which has been denied by the County Board, may be resubmitted to the Zoning Board of Appeals for a period of one (1) year from that date of denial, as described in § 16.16.020G. (Successive Applications).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.4; Ord. O-201803-ZBA-10-08,

**§ 16.20.050 SITE PLAN REVIEW.**

A. *Purpose.* Site plan review is a mandatory review process intended to promote orderly development and redevelopment in the County, and to assure that such development or redevelopment occurs in a manner that is harmonious with surrounding properties, is consistent with the *2030 Comprehensive Plan, Water Resources Action Plan, and 2040 Long Range Transportation Plan* and promotes the general welfare of the County. This section provides standards by which to determine and control the physical layout and design to achieve the:

1. Compatibility of land uses and structures.
2. Efficient use of land.
3. Minimization of traffic and safety hazards.
4. Efficient parking layout.
5. Minimization of environmental problems.
6. Optimization of stormwater management and ground water protection.
7. Incorporation of sustainable design techniques.
8. Compliance with all County permit requirements including, but not limited to, McHenry County Stormwater Management Ordinance, McHenry County Public Health Ordinance, and McHenry County Access Control and Right-of-Way Management Ordinance.
9. Protection of Class III Special Resources Groundwater Protection Areas and Sensitive Aquifer Recharge Areas, as required by Chapter 16.52 (Overlay Zoning Districts).

B. *Authority.*

1. Site plan review and approval is required for the following:
  - a. Conditional uses and planned developments.
  - b. Those uses identified in Chapter 16.56 (Use Standards) as requiring site plan review prior to approval.
2. No building permit may be issued by the Department of Planning and Development and no conditional use permit may be approved by the County Board until site plan approval has been granted, as required in subsection B.1. above. Prior to issuance of a building permit, review of the proposed development for compliance with the McHenry County Public Health Ordinance, the McHenry County Stormwater Management Ordinance and the McHenry County Access Control and Right-of-Way Management Ordinance is required.
3. As part of subsequent conditional use permit approval, the Zoning Board of Appeals may recommend and the County Board may impose additional conditions on an approved site plan.

C. *Procedure.*

1. Applications for site plan review shall be submitted to the Department of Planning and Development in accordance with the requirements in §16.16.020 (Application). Once it is determined that the application is complete, the application will be scheduled for review at a Staff Plat Review Committee meeting at least twenty-eight (28) days from the time of submittal.
2. The Staff Plat Review Committee will review the completed site plan review application and evaluate the site plan pursuant to the applicable standards in subsection D. below (Standards for Site Plan Review).
3. During review of the site plan, the Staff Plat Review Committee may request modification of the submitted site plan and resubmittal of a revised plan. The revised site plan will be processed in the same manner as the initial application.
4. Site plan review fees shall be paid in accordance with the County adopted fee ordinance.

D. *Standards for Site Plan Review.*

1. Each site plan submitted for review shall include the following details:
  - a. The location of principal and accessory structures, and all open space.
  - b. The location of all water supply and sanitary waste (well and septic) facilities.
  - c. All existing and proposed screening and landscaping.
  - d. All exterior lighting.
  - e. The location of parking lots, including required landscape islands, buffers, number of parking spaces, driveways, and internal access roads.Depending on the complexity of the project, the required details shall be divided into multiple plan sheets as necessary to ensure legibility.
2. In addition, the following characteristics will also be considered:
  - a. The conformance of the site plan to adopted land use policies and the policies of the *2030 Comprehensive Plan* and this Ordinance.
  - b. Compliance with other applicable County ordinances.
  - c. The location, arrangement, size, design, and general site compatibility of structures, lighting, and signs, including:
    - (1) Efficient use of land that responds to the existing off-site utilities and service conditions in order to minimize the demand for additional municipal services, utilities, and infrastructure.
    - (2) Adequate water supply and sewage disposal in compliance with the McHenry County Public Health Ordinance.
    - (3) Compatibility with, and mitigation of, any potential impact upon, adjacent property.
    - (4) Site illumination designed and installed to minimize adverse impact on adjacent properties.
  - d. Landscape and the arrangement of open space or natural features designed to:
    - (1) Create a desirable and functional environment for motorists, pedestrians, bicyclists, and occupants of residences and businesses. To achieve such an environment, landscape may take advantage of open space design features such as bike paths, running paths, and outdoor relaxation areas.
    - (2) Preserve unique natural resources, including preservation and protection of existing healthy, mature trees.
    - (3) Protect natural resources and landscape on adjacent sites.
    - (4) Design drainage facilities to promote retention of water onsite and preservation of natural watercourses and patterns of drainage.
    - (5) Utilize plant materials suitable to withstand the climatic conditions of the County and microclimate of the site.
    - (6) Use of screening to buffer the impact of the development on adjacent uses and screen incompatible uses and certain site elements, creating a logical transition to contiguous lots and developments.
  - e. Circulation systems and off-street parking designed to:
    - (1) Provide adequate and safe access to the site for motor vehicles as well as alternate modes of transportation, including pedestrians and bicyclists.
    - (2) Minimize potentially dangerous traffic movements.

- (3) Separate pedestrian and auto circulation, and provide for bicycle parking or storage insofar as practical.
- (4) Minimize curb cuts by using cross-access easements and shared parking.
- (5) Design off-street parking lots or garages to minimize adverse impacts on adjacent properties, particularly through the use of perimeter and interior landscape, and promote logical and safe parking and internal circulation.
- (6) Clearly define pedestrian access from the parking area to the structures.

E. *Amendments to Approved Site Plan Reviews.*

1. *Purpose.* Site plans that have been approved by the Staff Plat Review Committee may be amended based on the criteria and procedures in this section.
2. *Procedure.*
  - a. An application for an amendment to an approved site plan shall be submitted to the Department of Planning and Development. Amendment applications shall include a written description of the proposed change, including the reason for such change, and a notation of the location on the approved site plan.
  - b. Minor changes, as required by technical engineering or other physical site circumstances not foreseen at the time that the site plan was approved, may be authorized by the Zoning Enforcement Officer, who reserves the right to forward any such request to the Staff Plat Review Committee for approval. All other changes require approval by the Staff Plat Review Committee.
  - c. The Zoning Enforcement Officer may decide that the proposed change or changes to the approved site plan is such a significant change that it constitutes a new application and is subject to the complete site plan review provisions of this section, including fees.
  - d. The Staff Plat Review Committee may determine that a proposed amendment to an approved site plan requires submittal of a revised site plan for proper evaluation. Submittal of the revised site plan only requires those components of the submittal package impacted by the proposed change. Until such revised site plan is submitted, the application is not considered complete. Nothing within this section prevents an applicant from submitting a revised site plan with the amendment application at the time of initial submission.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.20.060 MAP CORRECTION.**

- A. *Purpose.* The purpose of a map correction is to correct drafting errors on the Official Zoning Map. Such an adjustment is solely to correct a minor mapping error made by the County.
- B. *Initiation.* Applications for map corrections may be initiated by the property owner or other person expressly authorized in writing by the property owner, or the Zoning Enforcement Officer.
- C. *Authority.* The County Board is authorized to approve a map correction.
- D. *Procedure.*

1. An application for a map correction shall be filed with the Department of Planning and Development. All applications for a map corrections shall be filed in accordance with the requirements in § 16.16.020 (Application).
2. If the map correction is proposed by the Zoning Enforcement Officer, notification shall be provided to the person who last paid taxes on the property in accordance with the records of the McHenry County Treasurer's Office. The County shall mail notice by certified mail no less than fifteen (15), but no more than thirty (30), calendar days prior to the date the map correction is to be considered by the County Board.
3. The County Board may either approve or deny the application for a map correction. The County Board shall not approve a map correction if the property owner objects. In such a situation, the procedures in § 16.20.010 (Zoning Map and Text Amendment) shall be utilized.
4. No application for a map correction, which has been denied by the County Board, may be resubmitted to County Board for a period of one (1) year from that date of denial, as described in § 16.16.020G. (Successive Applications).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.20.070 ZONING INTERPRETATION.**

- A. *Purpose.* The interpretation authority is intended to recognize that the provisions of this Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific zoning issue. This interpretation authority is not intended to add or change the essential content of the Ordinance.
- B. *Initiation.* Applications for zoning interpretations may be filed by a property owner. In addition, the Planning and Development Committee may request that the Zoning Enforcement Officer render an interpretation. All applications for interpretations shall be filed with the Department of Planning and Development in accordance with the requirements in § 16.16.020 (Application). Fees shall be required in accordance with the County adopted fee ordinance. All interpretation requests from a property owner shall be for the purpose of furthering actual development or use of the property.
- C. *Authority and Execution.* The Zoning Enforcement Officer will review and render written decisions on all applications for interpretations. Each written decision shall be dated by the Zoning Enforcement Officer.
- D. *Procedure.* The Zoning Enforcement Officer will review a request for an interpretation and render the interpretation in writing within a reasonable time. The Zoning Enforcement Officer has the ability to request additional information prior to rendering an interpretation.
- E. *Appeals.* An applicant may appeal the Zoning Enforcement Officer's decision to the Zoning Board of Appeals within ninety (90) calendar days of the decision in accordance with § 16.20.090 (Zoning Appeal).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.20.080 SIGN PERMIT.**

- A. *Applicability.* Unless otherwise exempted by this Ordinance, the construction, alteration, or relocation of all signs requires a sign permit. The sign permit shall provide for both zoning and construction approval. Certain signs may also require review against the Stormwater Management Ordinance and/or stormwater permits.
- B. *Initiation.* Applications for sign permits may be initiated by a property owner or other person expressly authorized in writing by a property owner.
- C. *Authority.* The Zoning Enforcement Officer is responsible for determining compliance with this Ordinance. The Building Enforcement Officer is responsible for determining compliance with the applicable building codes, as adopted by the County.
- D. *Procedure.* Upon the filing of an application for a permit for construction, alteration, or relocation of a sign, the Zoning Enforcement Officer and Building Enforcement Officer determine whether the application is complete. Once it is determined that the application is complete, the Zoning Enforcement Officer and Building Enforcement Officer will issue a permit if the sign complies with the requirements of this Ordinance and all other ordinances.
- E. *Inspection.* The Zoning Enforcement Officer and/or Building Enforcement Officer may inspect, at such times as deemed appropriate, each sign regulated by this Ordinance. The purpose of the inspection is to ascertain whether the structure is structurally sound, in need of repair or removal, or not in conformance with the permit application or otherwise violates the provisions of this Ordinance.
- F. *Expiration of Permit.* The sign permit shall be valid for a time period in conformance with the County approved building codes.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.8; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.20.090 ZONING APPEAL.**

A. *Purpose.* The zoning appeals process for review of decisions of the Zoning Enforcement Officer is intended to provide appropriate checks and balances on administrative authority as related to this Ordinance.

B. *Initiation.* Applications for appeals may be filed by a property owner that is directly affected by a Zoning Interpretation as provided for in §16.20.070 (Zoning Interpretation) and other decisions of the Zoning Enforcement Officer.

C. *Authority.* The Zoning Board of Appeals may review only those decisions of the Zoning Enforcement Officer that are directly related to the zoning provisions of this Unified Development Ordinance. The Zoning Board of Appeals may review the Zoning Enforcement Officer's decisions with respect to the classification of uses under § 16.32.060D. (Zoning District Uses). The zoning provisions include Chapter 16.72 (Signs), but exclude Chapter 16.76 (Subdivision Standards). Other decisions and actions that are the responsibility of the Zoning Enforcement Officer, but are based on ordinances separate from this Unified Development Ordinance, cannot be appealed under this process.

D. *Procedure.*

1. Zoning appeals are filed with the Department of Planning and Development. All applications for a zoning appeal shall be filed in accordance with the requirements in § 16.16.020 (Application). Upon the filing of an application for an appeal of a Zoning Enforcement Officer determination, the Zoning Board of Appeals will review the appeal within ninety (90) calendar days.

2. The Zoning Board of Appeals may reverse, affirm or modify the determination. A concurring vote of five (5) members of the Zoning Board of Appeals is necessary to reverse any determination of the Zoning Enforcement Officer. The Zoning Board of Appeals decision shall be on the record.

E. *Limitations on Appeals.* An interpretation may only be appealed if an application is filed within ninety (90) calendar days of the Zoning Enforcement Officer decision.

F. *Stay of Proceedings.* An appeal stops all official proceedings unless the Zoning Enforcement Officer provides the Zoning Board of Appeals with a statement stating that a stay of the proceedings would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court on notice to the Zoning Enforcement Officer from whom the appeal is taken and on due cause shown.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.9; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.20.100 TEMPORARY USE PERMIT.**

A. *Purpose.* A temporary use permit authorizes the temporary use of land and structures for certain events and structures that are non-permanent in nature. A temporary use permit authorizes only those temporary uses that occur entirely on a zoning lot. Temporary uses located within the public right-of-way are regulated separately by the roadway jurisdiction.

B. *Initiation.* Applications for temporary use permits may be initiated by the property owner or other person expressly authorized in writing by the property owner.

C. *Authority.* The Zoning Enforcement Officer is responsible for determining compliance with this Ordinance and issuing a temporary use permit.

D. *Procedure.*

1. An application for a temporary use permit shall be filed with the Zoning Enforcement Officer in accordance with the requirements in §16.16.020 (Application) at least 30 days in advance of the date of the event.

2. The Zoning Enforcement Officer may grant temporary use permits for those temporary uses listed in §16.56.040 (Temporary Use Standards) when it is determined that the proposed temporary use complies with all requirements of this Ordinance and the standards of subsection E. below (Standards). Unless otherwise permitted by this Ordinance, every temporary use or structure shall comply with the bulk requirements applicable in the district in which it is located.

3. Every temporary use shall comply with this Ordinance and all local regulations. The Zoning Enforcement Officer or County Board may impose other conditions as part of the temporary use permit approval to achieve the purposes of this Ordinance and to protect the public health, safety, and welfare.

4. Multiple event periods require a temporary use permit for each scheduled event.

5. The temporary use permit is issued for the days of the event. A temporary use permit is not required for the additional days necessary for event set-up or clean-up.

E. *Standards.* Every application for temporary use shall include sufficient documentation to show compliance with the following standards:

1. The temporary use will not cause or threaten to cause an on-site or off-site threat to the public health, safety, and welfare.

2. The temporary use will be operated in accordance with fire department restrictions and conditions.

3. The additional vehicular traffic reasonably expected to be generated by a temporary use will not have undue detrimental effects on surrounding streets and uses, and does not block handicapped or fire lanes.

4. The temporary use will not unreasonably reduce the amount of parking spaces available for use in connection with any permanent uses located on the lot in question.

5. The temporary use will not conflict with another previously authorized temporary use for the same site.

6. Provisions have been made for waste disposal (solid and human) and for clearing debris, to be approved by the Department of Health.

7. Temporary food establishments will be operated in accordance with County ordinances, to be approved by the Department of Health.

8. A security plan acceptable to the McHenry County Sheriff with security personnel provided by an Illinois-licensed security contractor agency licensed by the State of Illinois Department of Financial and Professional Regulations to provide such security services, or by the Sheriff's Department.

9. The location of paved or graded ingress and egress for emergency, police, and regulatory traffic, including parking areas and traffic control locations.

10. General liability insurance is required for all temporary use events. If the temporary use permit is for a fireworks display, the County shall be listed as a named insured. Additionally, dram shop insurance is required for any temporary use event at which liquor is to be sold.

11. If applicable, the appropriate liquor license, issued pursuant to the McHenry County Liquor Control Ordinance.

12. All other state and/or federal permits have been issued, as required.

13. The maximum number of persons to be on-site per day, including participants and spectators.

14. All structures used for a temporary use meet the building-code requirements for that occupancy.

15. The time required for event set-up and tear-down is specified and reasonable.

16. All temporary use events with an anticipated attendance of greater than 2,500 shall have an Incident Action Plan approved by the McHenry County Emergency Management Agency. The Incident Action Plan shall include law enforcement, fire, public health, and public works/transportation roles and responsibilities during the operational periods of the event. The McHenry County Emergency Management Agency will coordinate development of the Incident Action Plan with the applicant and appropriate agencies.

F. *Violations.* Noncompliance with this section or violation of any terms of a temporary use permit may result in the reduction of the number of temporary use permits for which a property is eligible in a calendar year, or in a prohibition on additional temporary use permits being granted for that property for a period of one (1) year from the date of the noncompliance or violation.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 5.10; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## **CHAPTER 16.24: SUBDIVISION APPLICATIONS**



- 16.24.020 Applicability
- 16.24.030 Plat Act exceptions
- 16.24.040 Subdivision review procedure
- 16.24.050 Exemptions from subdivision standards
- 16.24.060 Submittal requirements
- 16.24.070 Payment of taxes
- 16.24.080 Security requirements

**§ 16.24.010 PURPOSE.**

A subdivision or resubdivision of land requires a property owner to comply with certain procedures outlined in the Counties Code and the Plat Act (55 ILCS 5/5-15007 and 765 ILCS 205/1 *et seq.*). This chapter establishes additional procedures governing the platting of land in McHenry County, and is adopted to establish reasonable procedures for subdivision or resubdivision of land and provide for an orderly subdivision process and promote continuity with existing development.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.24.020 APPLICABILITY.**

A. No plat of subdivision will be approved that does not comply with all of the provisions of this Ordinance. No subdivision plat may be recorded unless it has been approved by the Zoning Enforcement Officer, the Planning and Development Committee, and the County Board.

B. No owner or agent of the owner of any land located in a proposed subdivision may transfer, sell, lease, or offer for sale or lease any such land before a final plat of such subdivision has been approved in accordance with the provisions of this Ordinance and recorded. Whoever sells or leases, or offers for sale or lease, any lot or block in any subdivision before complying with all of the requirements of these regulations is guilty of an offense and subject to the applicable fine.

C. The subdivision of any lot or any parcel of land by the use of metes and bounds descriptions for the purpose of sale, transfer or lease with the intent of evading these regulations is prohibited. All subdivisions described by metes and bounds are subject to all of the requirements of this Ordinance.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.24.030 PLAT ACT EXCEPTIONS.**

A. Specifically excepted from the subdivision procedures are those properties described in the Plat Act (765 ILCS 205/1 *et seq.*), where the Plat Act provisions do not require platting as a subdivision.

B. Subdivision procedures do not apply to plats of dedication prepared by or for the Illinois Department of Transportation, the McHenry County Division of Transportation, and/or any applicable township highway commissioner in connection with the improvement or vacation of any highway or road.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.24.040 SUBDIVISION REVIEW PROCEDURE.**

The following procedure applies to subdivision plat review in McHenry County. All plats are subject to a three (3) step review procedure (an optional pre-application review, preliminary plat and final plat), except plats of vacation and technical adjustments which require a one (1) step review as described in §§ 16.24.040D. (Plat of Vacation) and 16.24.040E. (Technical Adjustment) in this section. Submittal requirements are found within § 16.24.060 (Submittal Requirements).

A. *Pre-Application Review.* A property owner or other person expressly authorized by the owner in writing may initiate an optional subdivision pre-application meeting process by completing application forms as provided by the Department of Planning and Development and the payment of fees as required by the County adopted fee ordinance. An applicant may choose to begin at the preliminary plat stage, but shall submit all sketch plan requirements as part of the preliminary plat.

1. The property owner shall submit four (4) copies of a sketch plan prepared in accordance with the requirements of this section to the Department of Planning and Development and one (1) copy to each applicable township highway commissioner. Additionally, one (1) electronic copy of the sketch plan shall be submitted to the Department of Planning and Development. Sketch plans shall be submitted at least twenty-eight (28) calendar days prior to the Staff Plat Review Committee meeting where they will be considered.

2. The Department of Planning and Development will distribute a copy of the sketch plan to the Staff Plat Review Committee. The following individuals and organizations shall also be notified by the Department of Planning and Development of the place, date, and the time of the meeting where the sketch plan will be considered.

- a. Owner and his designated representative.
  - b. Owner's engineer, planner, or surveyor.
  - c. Applicable fire protection district(s).
  - d. Any homeowners association, which has indicated an interest in the review of the subdivision.
  - e. McHenry-Lake County Soil and Water Conservation District.
  - f. Each municipality within one and one-half (1½) miles of the subdivision.
  - g. Applicable school district(s).
  - h. Applicable township highway commissioner(s).
  - i. Applicable township supervisor(s).
  - j. Utility company representatives including, but not limited to, cable TV companies, telephone companies, electric companies, sewer and water utility companies, and gas companies.
  - k. McHenry County Conservation District.
  - l. Watershed groups with plans that have been adopted or accepted by the County Board covering the property in question.
3. The owner or designated representative is required to be present when the Staff Plat Review Committee reviews and evaluates the sketch plan.

B. *Preliminary Plat.*

1. A property owner or other person expressly authorized by the owner in writing may initiate the preliminary plat process by completing application forms as provided by the Department of Planning and Development and the payment of fees as required by the County adopted fee ordinance.

2. The property owner shall submit four (4) copies of a preliminary plat prepared in accordance with the requirements of this section to the Department of Planning and Development and one (1) copy to each applicable township highway commissioner, fire district, and school district. Additionally, one (1) electronic copy of the preliminary plat shall be submitted to the Department of Planning and Development.

3. Preliminary plats shall be submitted at least twenty eight (28) calendar days prior to the Staff Plat Review Committee meeting where it will be considered.

4. The Department of Planning and Development will distribute a copy of the preliminary plat to the Staff Plat Review Committee. The following individuals and organizations shall also be notified by the Department of Planning and Development of the place, date, and the time of the meeting where the preliminary plat will be considered.



- a. Owner and his designated representative.
  - b. Owner's engineer, planner, or surveyor.
  - c. Applicable fire protection district(s).
  - d. Any homeowners association, which has indicated an interest in the review of the subdivision.
  - e. McHenry-Lake County Soil and Water Conservation District.
  - f. Each municipality within one and one-half (1½) miles of the subdivision.
  - g. Applicable school district(s).
  - h. Applicable township highway commissioner(s).
  - i. Applicable township supervisor(s).
  - j. Utility company representatives including, but not limited to, cable TV companies, telephone companies, electric companies, sewer and water utility companies, and gas companies.
  - k. McHenry County Conservation District.
  - l. Watershed groups with plans that have been accepted or adopted by the County Board covering the property in question.
5. The owner or designated representative is required to be present when the Staff Plat Review Committee reviews the preliminary plat.
6. Approval of the preliminary plat by the Staff Plat Review Committee and a letter from each applicable school district indicating whether a school site or a cash donation in lieu of land is required prior to submission of the preliminary plat to the Planning and Development Committee for their review.

7. A rejected preliminary plat may be appealed to the Planning and Development Committee, the Public Health Administrator, or Board of Health Hearing Committee if the appeal is related to construction of private sewer or water systems, or the Stormwater Management Hearing Officer if the appeal is related to stormwater management. Such appeal shall be submitted to the Department of Planning and Development within ninety (90) calendar days and shall be placed on the agenda of the next available meeting for the appropriate body. Appeals related to private sewer and water systems must be filed with the Public Health Administrator in accordance with the provisions of the Public Health Ordinance. Appeals related to stormwater management must be filed with the Chief Stormwater Engineer, in accordance with the provisions of the Stormwater Management Ordinance.

8. It is the property owner's responsibility to request that the Department of Planning and Development submit the preliminary plat, as approved by the Staff Plat Review Committee, to the Planning and Development Committee within one hundred eighty (180) calendar days from the date of approval by the Staff Plat Review Committee. If a preliminary plat has been conditionally approved by the Staff Plat Review Committee, all conditions of approval shall be met and four (4) copies of the revised plat and drawings submitted to the Department of Planning and Development, and an electronic copy, before the preliminary plat may be forwarded to the Planning and Development Committee. If the applicant fails to submit the revised plat and drawings, or if the applicant fails to request that the approved preliminary plat be submitted to the Planning and Development Committee within one hundred eighty (180) calendar days, the preliminary plat shall be void.

9. Approval of the preliminary plat by the Planning and Development Committee is required prior to the submission of a final plat.

10. The preliminary plat shall be approved by the planning commission of the closest municipality within one and one-half (1½) miles of the proposed subdivision or by the municipality within one and one-half (1½) miles that is granted planning authority through an intergovernmental boundary agreement.

11. Following approval of a preliminary plat by the Planning and Development Committee, a final plat shall be recorded within two (2) years or the preliminary plat expires. When approval has expired, the preliminary plat shall again be reviewed and approved by the Staff Plat Review Committee and the Planning and Development Committee before a final plat may be submitted.

#### C. Final Plat.

1. A property owner or other person expressly authorized by the owner in writing may initiate the final plat process by completing application forms as provided by the Department of Planning and Development and the payment of fees as required by the County adopted fee ordinance.

2. A final plat shall be recorded within two (2) years of the approval of the preliminary plat by the Planning and Development Committee. A final plat may be recorded in phases. The first phase shall be recorded within two (2) years of approval of the preliminary plat by the Planning and Development Committee. The application for a final plat for a phased development shall include a proposed schedule for the recording of each subsequent phase, to be approved by the Planning and Development Committee.

3. The property owner shall submit four (4) copies of the final plat and four (4) copies of the engineering drawings and reports to the Department of Planning and Development and one (1) copy of the final plat and the engineering drawings and reports to each applicable township highway commissioner, fire district, and to the nearest municipality within one and one-half (1½) miles of the property or the municipality within one and one-half (1½) miles of the property that is granted planning authority through an intergovernmental boundary agreement. Additionally, one (1) electronic copy of the final plat and the engineering drawings and reports shall be submitted to the Department of Planning and Development.

4. Final plat and the engineering drawings and reports shall be submitted at least twenty-eight (28) calendar days prior to the Staff Plat Review Committee meeting at which they are to be considered.

5. The Department of Planning and Development will distribute a copy of the final plat and the engineering drawings and reports to the Staff Plat Review Committee. The following individuals and organizations shall also be notified by the Department of Planning and Development of the place, date, and the time of the meeting where the final plat will be considered.

- a. Owner and his designated representative.
  - b. Owner's engineer, planner, or surveyor.
  - c. Applicable fire protection district(s).
  - d. Any homeowners association, which has indicated an interest in the review of the subdivision.
  - e. McHenry-Lake County Soil and Water Conservation District.
  - f. Each municipality within one and one-half (1½) miles of the subdivision.
  - g. Applicable school district(s).
  - h. Applicable township highway commissioner(s).
  - i. Applicable township supervisor(s).
  - j. Utility company representatives including, but not limited to, cable TV companies, telephone companies, electric companies, sewer and water utility companies, and gas companies.
  - k. McHenry County Conservation District.
  - l. Watershed groups with plans that have been accepted or adopted by the County Board covering the property in question.
6. The owner or designated representative is required to be present when the Staff Plat Review Committee reviews the final plat.

7. Approval of the final plat by the Staff Plat Review Committee and completion of all requirements of this section is required prior to submission of the final plat to the Planning and Development Committee.

8. A rejected final plat may be appealed to the Planning and Development Committee. Such appeal shall be submitted to the Department of Planning and Development within ninety (90) calendar days and shall be placed on the agenda of the next available Planning and Development Committee meeting. Appeals related to private sewer and water systems must be filed with the Public Health Administrator in accordance with the provisions of the Public Health Ordinance. Appeals related to stormwater management must be filed with the Chief Stormwater Engineer, in accordance with the provisions of the Stormwater Management Ordinance.

9. It is the property owner's responsibility to request the Department of Planning and Development submit the final plat, as approved by the Staff Plat Review Committee, to the Planning and Development Committee within one hundred eighty (180) calendar days of approval by the Staff Plat Review Committee. If a final plat has been conditionally approved by the Staff Plat Review Committee, all conditions of approval shall be met and four (4) copies of the revised final plat and drawings submitted to the Department of Planning and Development. Additionally one (1) electronic copy of the revised final plat shall be forwarded to the Planning and Development Committee. The applicant shall submit the revised final plat and drawings to the Staff Plat Committee for re-review within one hundred eighty (180) calendar days. The applicant shall request that the approved final plat be submitted to the Planning and Development Committee within one hundred eighty (180) calendar days.

10. In accordance with state statute, the Planning and Development Committee shall hold a public hearing in conjunction with their approval of final plats with regard to the donation of land or cash contribution in lieu thereof, or a combination of both, for school or other purposes prior to approval. The Planning and Development Committee shall also conduct a public hearing on the establishment of the backup Special Service Area, if any.

11. It is the property owner's responsibility to make arrangements to obtain all signatures needed to finalize the plat, other than the County Board chairman. When all signatures required on the plat have been obtained, the property owner may submit the plat to the Planning and Development Committee.

12. The final plat shall be approved by the Planning and Development Committee before submittal to the County Board for consideration. The applicant shall request that the final plat be submitted to the County Board within one hundred eighty (180) calendar days of approval by the Planning and Development Committee.

13. Following approval by the Planning and Development Committee, the Planning and Development Committee chairman and Zoning Enforcement Officer shall affix their signatures to the preliminary plat and a final plat may be scheduled for review by the County Board in accordance with the Zoning Board of Appeals' agenda procedures.

14. Within three (3) business days after a final plat is submitted for approval, the County Board shall notify the president of the school board and the superintendent of each school district in which any of the subdivided land is located that the final plat has been submitted for approval by the County Board and that it is available for inspection. The notice shall also give the date, time, and place of the hearing on approval or disapproval of the plat. The notice shall be served by certified mail, return receipt requested, or by personal delivery. Failure to notify the school board and superintendent as required by this section does not invalidate the plat.

15. After a final plat has been approved by the County Board, it will be placed in the custody of the McHenry County Clerk, who shall obtain the signatures of the County Board chairman, and attest to that signature on the plat.

16. After a final plat has been recorded and digitally scanned, the property owner shall obtain the number of copies specified by the Zoning Enforcement Officer, and deliver them to the Department of Planning and Development for distribution to the voting members of the Staff Plat Committee. The Department of Planning and Development may refuse to issue building permits for lots in the subdivision until the required number of copies is submitted pursuant to the Plat Act (765 ILCS 205/56).

#### D. *Plat of Vacation.*

1. A person wishing to vacate all or part of an existing plat shall submit four (4) copies of the plat prepared in accordance with the requirements of this section to the Department of Planning and Development, and one (1) copy to the applicable township highway commissioner, fire district, county engineer, IDOT District Engineer, and to the public utility or utilities involved. Additionally, one (1) electronic copy of the plat shall be submitted to the Department of Planning and Development.

2. A plat shall be submitted at least twenty-eight (28) calendar days prior to the Staff Plat Review Committee meeting where it will be considered.

3. The Department of Planning and Development will distribute a copy of the plat to the Staff Plat Review Committee. The Department of Planning and Development will notify the following individuals and organizations of the place, date, and the time of the meeting where the plat will be considered.

- a. Owner and his designated representative.
- b. Owner's engineer, planner, or surveyor.
- c. Applicable fire protection district(s).
- d. Any homeowners association, which has indicated an interest in the review of the subdivision.
- e. McHenry-Lake County Soil and Water Conservation District.
- f. Each municipality within one and one-half (1½) miles of the subdivision.
- g. Applicable school district(s).
- h. Applicable township highway commissioner(s).
- i. Applicable township supervisor(s).
- j. Utility company representatives including, but not limited to, cable TV companies, telephone companies, electric companies, sewer and water utility companies, and gas companies.
- k. McHenry County Conservation District.

l. Watershed groups with plans that have been accepted or adopted by the County Board covering the property in question.

4. The owner or designated representative is required to be present when the Staff Plat Review Committee reviews the plat.

5. Staff Plat Review Committee minutes from each meeting where the plat of vacation was evaluated shall be sent to the owner and/or his technical representative, the Staff Plat Review Committee voting and ex-officio members, and other parties requesting copies of the minutes.

6. Staff Plat Review Committee approval of the plat of vacation is required prior to submission of the plat to the Planning and Development Committee.

7. Staff Plat Review Committee approval of the plat and completion of all requirements of this section are required prior to submission of the final plat to the Planning and Development Committee.

8. A rejected plat of vacation may be submitted on appeal within ninety (90) calendar days to the Planning and Development Committee.

9. Staff Plat Review Committee approval of a plat of vacation expires one hundred eighty (180) calendar days from the date of approval. When the approval has expired, the applicant shall submit a new plat of vacation to the Staff Plat Review Committee for review and approval before submission of the plat of vacation to the Planning and Development Committee.

10. It is the property owner's responsibility to request the Department of Planning and Development submit the plat, as approved by the Staff Plat Review Committee, to the Planning and Development Committee. If a plat has been conditionally approved by the Staff Plat Review Committee, all conditions of approval shall be met before the plat may be forwarded to the Planning and Development Committee.

11. The plat shall be approved by the Planning and Development Committee before it can be submitted to the County Board for consideration.

12. Following Planning and Development Committee approval, the Planning and Development Committee chairman and Zoning Enforcement Officer shall affix their signatures to the plat and a plat of vacation will be scheduled for County Board approval in accordance with its adopted agenda procedures.

13. After a plat of vacation has been approved by the County Board, it is in the custody of the McHenry County Clerk, who shall obtain the signatures of the County Board chairman, and attest to that signature on the plat. When all signatures required on the plat have been obtained, the property owner may obtain the plat of vacation from the McHenry County Clerk and present it to the McHenry County Recorder's Office for recording.

14. After a plat of vacation has been recorded and digitally scanned, the property owner shall obtain the number of copies specified by the Zoning Enforcement Officer, and deliver them to the Department of Planning and Development.

15. A plat of vacation which has not been recorded within one hundred eighty (180) calendar days after County Board approval is no longer valid and cannot be recorded.

#### E. *Technical Adjustment.*

1. The following actions are eligible for technical adjustment.

- a. A minor change in the boundary between two (2) contiguous lots where both lots continue to conform to the underlying zoning requirements.
- b. The division of a single lot into two (2) lots as long as both lots conform to the underlying zoning requirements.

- c. The consolidation of two (2) lots into a single lot as long as the resulting lot conforms to the underlying zoning requirements.
  - d. A conveyance of land made to correct a description in a prior conveyance.
  - e. A revision of a plat to match a vacation of a township right-of-way by the township highway commissioner.
  - f. The removal or relocation of any easement, including but not limited to, drainage way, stormwater management, pedestrian trail and path, or access easements.
  - g. The modification, creation, or elimination of a designated water well installation area, water well, or septic system restricted area, or designated on-site wastewater treatment system installation area.
2. An applicant shall submit a technical adjustment application that describes the proposed adjustment, on forms provided by the County, and submittal of fees in accordance with County adopted fee ordinance.
  3. A technical adjustment application shall be submitted at least twenty-eight (28) calendar days prior to the Staff Plat Review Committee meeting where it will be considered.
  4. The owner or designated representative is required to be present when the Staff Plat Review Committee reviews the technical adjustment application.
  5. Staff Plat Review Committee minutes from each meeting where the technical adjustment application was evaluated shall be sent to the owner and/or his technical representative, the Staff Plat Review Committee voting and ex-officio members, and other parties requesting copies of the minutes.
  6. Approval of the technical adjustment application by the Staff Plat Review Committee is required.
  7. If the subdivision is served by on-site wastewater treatment systems, the technical adjustment shall fully comply with the requirements of the McHenry County Public Health Ordinance and requires a signature by the Public Health Administrator.
  8. The technical adjustment must be filed with the McHenry County Recorder within one hundred eighty (180) calendar days from the date of approval by the Staff Plat Review Committee. If the technical adjustment is not filed with the McHenry County Recorder within one hundred eighty (180) calendar days, the approval has expired and the applicant shall submit a new technical adjustment application to the Staff Plat Review Committee for review and approval.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.24.050 EXEMPTIONS FROM SUBDIVISION STANDARDS.**

A. *Purpose.* A property owner may request an exemption from the subdivision requirements of Chapter 16.76 (Subdivision Standards) but only to provide relief from certain practical difficulties or hardships in carrying out the strict letter of those requirements. Only the subdivision requirements of Chapter 16.76 (Subdivision Standards) are eligible for an exemption. Variation from the zoning requirements of the applicable zoning district shall follow the variation provisions of § 16.20.020 (Variation). The subdivision shall comply with the requirements of all other ordinances unless variances from those ordinances are separately approved by the responsible enforcement agency.

B. *Process.*

1. Requests for exemptions shall be made in writing and presented to the Staff Plat Review Committee as part of the preliminary plat review process. If the Staff Plat Review Committee determines that an exemption is unwarranted, the applicant may appeal to the Planning and Development Committee. The Planning and Development Committee may reverse or affirm the decision of the Staff Plat Review Committee.
  2. The exemption request shall be included as part of the preliminary plat. Review of the exemption is required by both the Staff Plat Review Committee and the Planning and Development Committee, and will be evaluated against the standards of subsection C. below (Standards). An exemption request can move forward either by approval of exemption by both the Staff Plat Review Committee and the Planning and Development Committee or, if an exemption is denied by the Staff Plat Review Committee it may be appealed to the Planning and Development Committee, which may reverse or affirm the decision of the Staff Plat Review Committee.
- C. *Standards.* Requests for exemptions shall, at a minimum, include evidence and written documentation that demonstrate the exemption meets the following standards:
1. The particular surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.
  2. The purpose of the exemption is not based exclusively upon a desire to increase the monetary gain realized from the property.
  3. The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.
  4. That the granting of the exemption will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
  5. That the granting of the exemption requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.24.060 SUBMITTAL REQUIREMENTS.**

The following submittal requirements are required for each of the three (3) steps in the review procedure (sketch plan, preliminary plat and final plat) and for plats of vacation. All required certificates and forms shall meet the wording and format requirements of Appendix A (Required Certificates and Forms).

A. *Pre-Application Review Meeting.*

1. The pre-application review meeting is optional.
2. A sketch plan shall be submitted for the pre-application review meeting. The sketch plan shall show the basic resource features of the site and the proposed lot division, roadway layout, and general drainage features. A scale of one inch to one hundred feet (1"=100') is recommended. The sketch plan shall include the following information for the entire geographic extent of the proposed subdivision and for three hundred (300) feet surrounding the subdivision.
  - a. The title "Sketch Plan" with the name of the proposed subdivision underneath.
  - b. The name and address of the owner.
  - c. A separate location map on the same sheet at an appropriate scale.
  - d. The present zoning.
  - e. Existing property lines and roads, and proposed lot lines, block lines, and roads.
  - f. Existing man-made features such as structures, septic systems, and wells.
  - g. General features of adjacent areas necessary to show how the proposed development fits into the surrounding area.
3. The following information is required on separate sheet:
  - a. Name of subdivision.
  - b. Location (section, township, range).
  - c. Tax Parcel Permanent Index Number(s) (PIN).
  - d. Area of the subdivision and the proposed number of lots.
  - e. Name, address, and telephone number of the owner, engineer, and any other contact persons.
  - f. Natural Resources Inventory Report number.

- g. Type of zoning and zoning case number, if additional zoning approvals are needed.
- h. For Conservation Design, open space conservation goals and objectives.
- 4. A Natural Resource Inventory (NRI) Report from the McHenry-Lake County Soil and Water Conservation District shall be submitted with the sketch plan.
- 5. An analysis of whether the proposed subdivision requires Conservation Design, as determined by triggers of applicability of §16.76.030 (Conservation Design Triggers).
- 6. If onsite wastewater treatment systems will be utilized in the subdivision, the sketch plan shall include information as required by the Public Health Ordinance.
- 7. When located within the SARA Overlay District, a property owner may submit a soil or geologic analysis documenting that their property does not have the characteristics of a sensitive aquifer recharge area, in accordance with the processes specified in § 16.52.030C. (On-Site Verification and Review).

**B. Preliminary Plat Submittal Requirements.**

- 1. All information required for the pre-application review meeting. If a pre-application meeting was conducted, all materials must be updated if the meeting was conducted more than one (1) year prior to the submittal date or if site conditions have changed.
- 2. A preliminary plat depicts the proposed lot and block lines, streets, existing and proposed street names, and other engineering improvements superimposed on a map of the existing topography. Where on-site wastewater treatment systems will be used for subsurface waste disposal, submit all information required by the McHenry County Public Health Ordinance.
- 3. A preliminary plat shall be prepared in accordance with the following requirements. The preliminary plat and all accompanying technical data shall be signed, sealed, and dated by the professional engineer or land surveyor who supplied it.
- 4. If a pre-application review meeting was conducted, the sketch plan and all comments of the Staff Plat Review Committee shall be included as part of the preliminary plan submittal requirements. If a pre-application review meeting was not conducted, all submittal requirements for the sketch plan are considered submittal requirements for the preliminary plat.
- 5. The preliminary plat shall be prepared at a reasonable size and scale, and all lettering legible and clear. A scale of one inch to one hundred feet (1"=100') is recommended and the scale and north arrow indicated. The requirements are as follows:
  - a. The title, as described below, shall be at the top of the sheet:
    - Preliminary Plat
    - Subdivision Name
    - (Legal Description)
    - Township
    - Zoning District
  - b. All existing property lines, section and quarter section lines, and existing buildings.
  - c. The lines and dimensions of all contiguous properties, and the names, lines, and dimensions of all existing rights-of-way within a two-hundred-foot (200') radius.
  - d. The names of all subdivisions within three hundred (300) feet. All property not subdivided shall be so marked.
  - e. The zoning of surrounding property within three hundred (300) feet.
  - f. Topography with contour intervals based on the typical slopes found on the property, in accordance with the following:
    - (1) (a) Slope 0-25%: One-foot (1') contours.
    - (b) Slope 25% or greater: Two-foot (2') contours.
    - (2) If a different scale is used, a contour interval shall be selected that will result in a similar spacing of contour lines and provide a clear understanding of the topography.
    - (3) Topography shall be extended along all existing streets and roads within two hundred (200) feet.
    - (4) The topographic layout shall be referenced to a United States Geological Survey North American Vertical Datum of 1988 (NAVD88) and the reference benchmark cited.
  - g. A list of all political and service districts including, but not limited to, the following: fire protection, educational facility, post office, park, and library.
  - h. All dedicated areas for parks, ponds, preserves, and school lots.
  - i. A statement listing all municipalities within one and one-half (1½) miles of the proposed subdivision or, if there are no municipalities within one and one-half (1½) miles, the statement shall so indicate. The statement shall also indicate which municipality is exercising the statutory privilege of planning advice, if a planning boundary line has been negotiated.
  - j. The following certificates:
    - (1) A certificate verifying approval by the city council or board of trustees of the closest municipality within one and one-half (1½) miles or the municipality within one and one-half (1½) miles that has planning authority based on an intergovernmental boundary agreement.
    - (2) A certificate verifying approval by the applicable township highway commissioner(s).
  - k. Maximum impervious coverage per lot.
  - l. The following requirement of the Stormwater Management Ordinance:
    - (1) Stormwater easements, including all conveyances, detention, and compensatory storage.
    - (2) Wetland and buffer easements.
    - (3) Base flood elevation and limits.
    - (4) Building protection elevations.
    - (5) Detention normal, two-year (2-year), and one-hundred-year (100-year) water surface elevations.
    - (6) Subsurface drainage (drain tile) survey.
- 6. The following written reports and statements shall be submitted along with the preliminary plat:
  - a. A proposal for a homeowners association, if applicable, and any proposed covenants and restrictions. Covenants should include a clause stipulating that they cannot be revoked or amended without prior approval by the County Board.
  - b. A description of how non-right-of-way dedicated areas will be maintained and stormwater control systems will be maintained, consistent with the Stormwater Management Ordinance.
  - c. A description of the type of water supply to be used.
  - d. A report, plans, and calculations that are sealed by a registered professional engineer that meet the application requirements of the Stormwater Management Ordinance.
  - e. A report and plans with all applicable roadway design information as specified in the McHenry County Division of Transportation Permit Procedures and Requirements Manual, Chapter 3.

f. An Illinois Department of Natural Resources Endangered Species Consultation (EcoCAT) Report completed within the previous two (2) years.

C. *Final Plat Requirements.*

1. In order to prepare a final plat suitable for recording, the final plat shall show all lots, easements, blocks, streets and other dedicated areas, and other items such as building setback lines, restrictions for on-site wastewater treatment systems, and any ingress and egress restrictions. The final plat shall be prepared under the supervision of a registered Illinois land surveyor.

2. A final plat shall be prepared as follows:

a. The final plat shall be prepared digitally or drawn in ink on suitable Mylar drafting film.

b. The final plat shall be drawn in accordance with the approved preliminary plat and may only vary from the preliminary plat in minor respects that are approved by the County. The plat shall be labeled as a final plat, and show the name of the subdivision with the township name underneath and the zoning classification of the property being subdivided.

c. Drawn to a scale of one inch to one hundred feet (1"=100'). A larger scale may be used if desired for a proper exhibit of the subdivision. The maximum sheet size is twenty-four inches by thirty-six inches (24" x 36") but more than one (1) sheet may be used if necessary. All hand lettering shall be legible and at least one-tenth (0.1) of an inch high. All typed or printed lettering shall be at least the same size as "Pica 12."

d. A correct survey of the property being subdivided, including a legal description, prepared by a registered Illinois land surveyor.

e. All dimensions, linear, curvilinear, and angular, necessary to properly re-survey, shall be shown with linear dimensions in feet and decimals of a foot.

3. Each new subdivision shall be provided with monuments located and described on the final plat in the manner required by the Plat Act (765 ILCS 205/1 *et seq.*), and as follows:

a. Reference shall be made upon the plat to known and permanent monuments from which future surveys may be made.

b. The surveyor shall, at the time of making the survey, set good and sufficient monuments, and set in such a manner that the monuments will not be moved by frost, marking the external boundaries of the tract to be divided or subdivided and designate upon the plat the point where they may be found.

c. These monuments shall be placed at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along a meander line. The points shall not be less than twenty (20) feet back from the normal water elevation of a lake or from the bank of a stream, unless such corners or points fall within an existing or proposed street, then the monuments shall be placed in the right-of-way line of the street.

d. Two (2) of the monuments shall be of stone or reinforced concrete and shall be set at opposite extremities of the property being platted. One (1) monument shall be located adjacent to a public roadway and one (1) monument shall be marked with a NAVD 1988 elevation established by the surveyor and its location and elevation shown on the plat.

e. All internal boundaries, corners, and points shall be monumented in the field by like monuments as defined above. These monuments shall be placed at all block corners, at each end of all curves, at the points where a curve changes its radius, and at all angle points in any line. All lots shall be monumented in the field with two (2) or more monuments.

f. All monuments shall meet the following standards:

(1) Concrete or stone monuments: two (2) feet long, six (6) inches square at the bottom and four (4) inches square at the top.

(2) Pipe: two (2) feet long and two (2) inches in diameter.

(3) Iron stakes – for internal boundary monuments only: at least one-half (½) inch in diameter and two (2) feet long.

g. A certificate, to be signed by the surveyor, shall be placed on the final plat to indicate that all monuments required by the Plat Act and this Ordinance have been set and properly described on the final plat.

4. The final plat shall include the following certificates, as shown in Appendix A. Certificates need not be signed prior to review of the final plat by the Staff Plat Review Committee. Certificates shall be signed prior to submitting the final plat to the Planning and Development Committee.

a. Certificate indicating proximity to municipalities.

b. Certificate indicating approval by the authorized representative of the closest municipality within one and one-half (1½) miles of the proposed subdivision or for the municipality within one and one-half (1½) miles of the proposed subdivision that has planning authority through an intergovernmental boundary agreement.

c. Certificate indicating compliance with school donation requirements.

d. Owner's certificate and notary certificate.

e. Township highway commissioner's certificate and notary certificate.

f. County highway certificate for plats adjacent to County highways (sample certificates can be found in the McHenry County Division of Transportation Permit Procedures and Requirements Manual).

g. Surveyor's certificate.

h. Certificate regarding flood hazard.

i. Certificate regarding monuments.

j. Department of Health certificate.

k. County Clerk's certificate.

l. Planning and Development Committee certificate.

m. County Board certificate.

n. McHenry County Recorder's certificate.

o. Easement-crossing certificate.

p. Covenants and restrictions certificate.

q. Drainage certificate.

5. All easements, dedications, and districts shall be shown on the plat including:

a. The easement requirements of each utility and cable TV company shall be determined, and all required utility and cable TV company easements shown on the plat.

b. Other required easements such as drainage, stormwater detention and retention, road construction and maintenance, and pedestrian way easements shall be shown on the plat. Each easement shall be adequately dimensioned and its purpose indicated.

c. All non-right-of-way dedicated areas shall be indicated on the plat. The purpose of each such area, any restrictions on its use, and conveyance of ownership to either a unit of government or a property owners' association shall also be indicated on the plat. It is convention to indicate each such area as "hereby dedicated."

d. A list of all governmental districts in which the property is located including, but not limited to, post office, schools, and fire protection shall be placed on the plat.

6. Maximum impervious coverage per lot.

7. Compliance with all requirements of the Stormwater Management Ordinance, including but not limited to:

a. Stormwater easements, including all conveyances, detention, and compensatory storage.

- b. Wetland and buffer easements.
  - c. Base flood elevation and limits.
  - d. Building protection elevations.
  - e. Detention normal, two-year (2-year), and one-hundred-year (100-year) water surface elevations.
8. If a declaration of covenants and restrictions is prepared for the subdivision, it shall be filed in the McHenry County Recorder's Office. A reference to the declaration, including document number, shall be placed on the plat. In addition to other provisions, the declaration shall specify:
- a. The obligation of the association to maintain the common properties.
  - b. The mandatory membership of all property owners.
  - c. The obligation of all owners to pay assessments.
  - d. The right of the association to enforce any restrictions.
  - e. Automatic renewal of the covenants after a fixed period.
9. The engineer shall determine if any part of the proposed subdivision is located within a flood hazard area, as identified by the Federal Emergency Management Agency and the McHenry County Stormwater Management Ordinance, and place an appropriate certificate on the plat.
10. In accordance with an Act in Relation to the Regulation of Rivers, Lakes and Streams of the Illinois Compiled Statutes, if a subdivision borders upon or includes any public waters in which the State of Illinois has any property rights or property interests, it shall have a boundary line indicated between the private interests and public interests. The proposed boundary line shall be reviewed and approved by the Illinois Department of Natural Resources Office of Water Resources. A certificate shall be placed on the final plat to indicate that the boundary line has been approved by said department. Subdivisions bordering the following lakes and streams within McHenry County are subject to this requirement:
- a. Fox River.
  - b. Nippersink Creek.
  - c. Crystal Lake.
  - d. Griswold Lake.
  - e. Pistakee Lake.
11. In accordance with the Plat Act, a topographic study depicting the existing topography shall be submitted along with the final plat. The topographic study shall be at the same scale as the final plat, indicate road and lot outlines, and suitable for use as an overlay. If it is contemplated that the flow of surface water will be changed as a result of the subdivision, the topographic study shall indicate any such changes. A statement regarding drainage of surface water shall be included with the topographic study and be signed by the professional engineer and the owner or his/her duly authorized attorney, to the effect that to the best of their knowledge and belief the drainage of surface waters will not be changed by the construction of such subdivision or any part thereof, or, that if such surface water drainage will be changed, reasonable provision has been made for collection and diversion of such surface waters into public areas, or drains which the subdivider has a right to use, and that such surface waters will be planned for in accordance with generally accepted engineering practices and the McHenry County Stormwater Management Ordinance so as to reduce the likelihood of damage to the adjoining property because of the construction of the subdivision.
12. Stormwater plans in accordance with the Plat Act requirements for drainage and the Stormwater Management Ordinance.
13. A road plan prepared by a professional engineer is required. The road plans shall be prepared to the same topographic datum as the preliminary plat, and include a permanent benchmark clearly noted on the plans. Road plans shall include the following minimum data:
- a. Plan and profile, at a suitable scale, of all roads to be either built or improved.
  - b. Station cross-sections at a suitable scale, but a minimum of one inch to one hundred feet (1"=100').
  - c. Size, length, and invert elevation of all drainage structures. Calculations shall be furnished to justify all structures twenty-four (24) inches or more in diameter.
  - d. Plan and profile, at a suitable scale, cross-sections if appropriate, a typical section of all off-site drainage within three hundred (300) feet of the subdivision, and all on-site drainage in drainage easements.
  - e. Typical road section or sections as appropriate.
  - f. Details of all structures and special construction of any nature.
  - g. Typical or specific details at road intersections, cul-de-sacs, T-turnarounds, traffic circles, etc.
  - h. Road construction and maintenance easements, drainage easements, and lot lines.
  - i. If a subdivision is adjacent to a County highway and access to that County highway is proposed, additional and separate plans for the access and improvements to the County highway are required. These plans shall be prepared in accordance with the McHenry County Access Control and Right-of-Way Management Ordinance and the Permit Procedures and Requirements Manual. Additional and separate permitting is required with the McHenry County Division of Transportation for access to a County highway.
14. The final plat shall be consistent with the approved preliminary plat with regard to number of lots, configuration, setback lines, etc. In addition, the following is required:
- a. A street address in conformance with the numbering system of § 16.76.070 (Street Naming And Addressing) for each lot and indicated on the plat.
  - b. Where a lot has frontage on both an interior road and an existing main road, access shall be restricted to the interior road. A note indicating such restriction shall be indicated on the plat.
15. If a back-up Special Service Area (SSA) is required to ensure the permanent maintenance of stormwater management facilities and/or common open space, an ordinance shall be submitted with the final plat.
16. Prior to submission of a final plat for approval by the Planning and Development Committee:
- a. All certificates shall be signed, except those for the Planning and Development Committee, County Board (attested to by the County Clerk), and the McHenry County Recorder's Office.
  - b. An affidavit shall be filed with the Department of Planning and Development stating the right of the property owner to cause the land in question to be subdivided. An affidavit shall be submitted in the form required by this Ordinance, as shown in Appendix A.
  - c. Signed and dated by the land surveyor who prepared it, and include his/her official seal.
  - d. Road design engineer signature seal and the date on roadway plans.
  - e. The tax search fee shall be paid directly to the McHenry County Clerk.
17. A complete and detailed estimate of cost, prepared and signed by a professional engineer.
- D. *Plat of Vacation Submittal Requirements.* A plat of vacation shall be prepared as follows:
- 1. The plat of vacation shall be digitally prepared or drawn in ink on suitable Mylar drafting film.
  - 2. The plat of vacation to a scale of one inch to one hundred feet (1"=100'). A larger scale may be used if desired for a proper exhibit of the subdivision. The maximum sheet size is twenty-four inches by thirty-six inches (24" x 36") but more than one (1) sheet may be used if necessary. All hand lettering shall be legible and at least one-tenth (1/10) of an inch high. All typed or printed lettering shall be at least the same size as "Pica 12."
  - 3. The plat of vacation shall be labeled as such and include a correct survey of the property and a legal description of the area involved.

4. A north arrow, the scale, and all section and quarter-section lines shall be indicated on the plat.
  5. All required certificates and any statements or approvals regarding continuation or abandonment of existing easements regarding public service facilities or utilities, as referred to in the Plat Act (765 ILCS 205/6 *et seq.*), shall be placed on the plat.
  6. If the vacation includes any portion of a right-of-way, plats shall be approved by the applicable roadway authority and a certificate indicating such approval placed on the plat.
  7. The utility and the cable TV companies shall provide written approval if the vacation pertains to utility easements. The document shall be recorded and the document number placed on the plat.
  8. If the plat of vacation lies within one and one-half (1½) miles of a municipality or a municipality within one and one-half (1½) miles of the subdivision that is granted planning authority through an intergovernmental boundary agreement, the plat shall be approved by the city council or board of trustees of that municipality and a certificate of such approval, signed by the municipal clerk and mayor or president, placed on the plat.
  9. The final plat of vacation shall be signed and dated by the land surveyor who prepared it and bear his/her official seal. No additions or corrections are permitted by anyone other than the surveyor or someone under his immediate supervision.
- (Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.24.070 PAYMENT OF TAXES.

The McHenry County Clerk will conduct a tax search of the land being subdivided. Before a final plat may be submitted to the Planning and Development Committee, the owner shall make all payments of any and all taxes and special assessments levied against the property being platted. In vacating subdivisions previously platted, the petitioner shall submit evidence of the payment of all taxes and special assessments levied against the property in the same manner as is required for subdividing.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.24.080 SECURITY REQUIREMENTS.

##### A. General Requirements.

1. In order to insure that the work will be completed, all engineering improvements proposed in conjunction with a new subdivision, letters of credit, cash or certificates of deposit with a federally insured bank or savings and loan association, or bonds from an insurance company with offices in Illinois, shall be submitted to ensure the completion of all improvements. The institution providing the security shall be acceptable to the County.
2. In addition, a separate security shall be submitted for any work to be performed on the County roadway system, in accordance with the McHenry County Access Control and Right-of-Way Management Ordinance.
3. If a letter of credit is submitted as security, it shall be in substantially the form required by this Ordinance, and shall be without restrictions, non-declining, and irrevocable without approval of the County.

##### B. Amount of Security.

1. The owner shall post good and sufficient security with the Zoning Enforcement Officer, in the sum of one hundred twenty-five percent (125%) of the engineer's cost estimate to insure completion of the work. The engineer's cost estimate is subject to County review and approval. Subdivisions that are adjacent to and have access from a County highway require separate permits and shall provide separate securities in accordance with McHenry County Access Control and Right-of-Way Management Ordinance.
2. Each security required by this Ordinance shall be accompanied by an agreement executed by the property owner, and approved in writing by the County Board, in which the property owner agrees to make and install the improvements in accordance with the plans and specifications accompanying the final plat and specifying completion date in accordance with this Ordinance.
3. Security provided shall have an initial term of at least two (2) construction seasons and shall automatically renew until released by the County.

##### C. Release of Security.

1. At the discretion of the Zoning Enforcement Officer and township highway commissioner, partial reductions in the letter of credit may be issued. Partial reductions will only be considered for project construction elements that are substantially completed and only when the total project is twenty-five percent (25%), fifty percent (50%), and seventy-five percent (75%) completed, based on the engineer's cost estimate. Each request for a reduction in the letter of credit shall be accompanied by as built drawings, or other suitable documentation, showing the work completed, a statement certifying that all improvements have been completed in accordance with the approved engineering plans and specifications. The property owner shall also submit revised engineer's cost estimate for all remaining construction. The revised engineer's cost estimate shall be based on construction costs current to the date of the estimate. The revised engineer's cost estimates are subject to County approval. The County shall retain security in the sum of one hundred fifty percent (125%) of the estimated cost of the remaining construction.
2. At the time the security is submitted to the Zoning Enforcement Officer, the owner shall notify the Zoning Enforcement Officer in writing as to the name and address of the Illinois licensed professional engineer who will establish lines and grades and exercise general supervision as construction progresses.
3. Prior to the County's release of securities for subdivision improvements, an Illinois licensed professional engineer representing the property owner for such improvements will be required to submit as-built drawings, or other suitable documentation, showing the work completed and a statement certifying that all improvements have been completed in accordance with the approved engineering plans. Such certification shall cover all engineering aspects of the development including, but not limited to, roads, detention/retention, grading, filling, stabilization, and any topographic changes or adjustments proposed and approved by the Staff Plat Review Committee. Certification shall be in writing and submitted to the Zoning Enforcement Officer prior to release of securities. Applicants must separately apply for the release of any bonds held by the McHenry County Division of Transportation.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 6.8; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## CHAPTER 16.28: PLANNED DEVELOPMENTS

### Section

- 16.28.010 Purpose
- 16.28.020 Initiation
- 16.28.030 Existing planned development districts
- 16.28.040 Authorization
- 16.28.050 General standards for planned developments
- 16.28.060 Exceptions from district regulations
- 16.28.070 Procedure
- 16.28.080 Submittal requirements
- 16.28.090 Changes to approved final plans
- 16.28.100 Conditions and guarantees

#### § 16.28.010 PURPOSE.



The purpose of these planned development regulations is to:

- A. Provide flexibility in the development of land and in the design of structures.
- B. Provide flexibility in the location of structures.
- C. Encourage a creative approach to the use of land that results in better development and design than might otherwise be accomplished under the strict application of this Ordinance.
- D. Allow the efficient use of land to facilitate a more effective arrangement of uses, buildings, circulation systems, and utilities.
- E. Provide for more usable and suitably located open space and recreation areas than might otherwise be provided under the application of this Ordinance.
- F. Encourage the construction of appropriate aesthetic amenities that will enhance the character of the site.
- G. Ensure construction of quality commensurate with other developments within the community and compatible with the character of the surrounding area and contiguous properties.
- H. Facilitate the implementation of the *2030 Comprehensive Plan*, *Water Resources Action Plan*, *Green Infrastructure Plan*, any County Board approved watershed plans for the subject area, and the *2040 Long Range Transportation Plan*.
- I. Encourage the adaptive reuse of existing structures and preservation of historic landmarks.
- J. Encourage preservation of natural areas, aquifer recharge areas, and natural drainage ways.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.020 INITIATION.**

An application for a planned development may be filed by the property owner or other authorized person, as defined in §16.16.020A. (Authorization), for that property.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.030 EXISTING PLANNED DEVELOPMENT DISTRICTS.**

Planned Developments Districts, including Planned Development – Estate District (PD-E), Planned Development – Residential District (PD-R), and Commercial, Office, Research, Light Industrial (CORI) Planned Developments, approved prior to the effective date of this Ordinance remain valid. Such developments shall continue to comply with all requirements and conditions of their initial approval and are considered planned developments under this Ordinance. Any amendments to Planned Development Districts, including Planned Development – Estate Districts (PD-E), Planned Development – Residential Districts (PD-R), and Commercial, Office, Research, Light Industrial (CORI) Planned Developments, approved prior to the effective date of this Ordinance shall follow the procedures of this Ordinance for an amendment to an approved conditional use permit.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.040 AUTHORIZATION.**

A planned development is a conditional use in the applicable zoning districts, as indicated in the district use tables. A planned development may be granted in accordance with the procedures and standards of this section, and the conditional use provisions of § 16.20.040 (Conditional Use). Unless an exception to district standards is specifically approved as part of the ordinance granting or amending the planned development, the requirements of the underlying zoning district apply.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.050 GENERAL STANDARDS FOR PLANNED DEVELOPMENTS.**

- A. The site of the planned development shall be under common ownership and/or unified control. If there are two (2) or more owners, the application for the planned development shall be jointly filed by all such owners.
- B. The ordinance authorizing a conditional use permit for a planned development may grant exceptions to the regulations contained in this Ordinance including, but not limited to, use, density, area, bulk, yards, off-street parking and loading, and signs to achieve the objectives of the proposed planned development. Such exceptions shall be consistent with the procedures and standards of this chapter.
- C. Planned developments shall be compatible with the purpose and intent of this Ordinance and the *2030 Comprehensive Plan*.
- D. Planned developments shall not adversely affect the natural environment. Natural assets and features, such as existing trees, native vegetation, and natural drainage ways, shall be protected and preserved to the greatest extent practical.
- E. The site shall be accessible to public streets that are adequate to carry the traffic that will be generated by the proposed development. The streets and driveways within the proposed development shall be adequate to serve the uses within the development. The applicant is responsible for the cost and installation of any additional traffic controls and regulating devices that may be required.
- F. All planned developments shall provide acceptable design and construction of all utilities, roadways, parking facilities, landscape, and other site improvements, in accordance with the requirements of this Ordinance and other County codes including, but not limited to, McHenry County Stormwater Management Ordinance, McHenry County Public Health Ordinance, and McHenry County Access Control and Right-of-Way Management Ordinance.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.060 EXCEPTIONS FROM DISTRICT REGULATIONS.**

A. A planned development is subject to the underlying district regulations unless an exception to the district regulations is granted as part of the planned development approval. Exceptions from district regulations may be granted if such exceptions meet the following standards.

1. The proposed exceptions, is consistent with the *2030 Comprehensive Plan*, and the character and nature of existing and future development in the vicinity of the proposed planned development.
2. For use exceptions, the additional uses allowed are aligned with the intent of the planned development, compatible with uses existing or anticipated to occur upon the adjacent sites, and properly screened or buffered from adjacent properties as needed to minimize potential negative impacts.
3. The exceptions allow the planned development to preserve unusual topographic or natural features of the land. In addition, the exceptions provide more usable and suitably located open space and natural amenities than would otherwise be provided under the strict application of district standards.
4. The exceptions allow the planned development to implement innovative design features that would not be possible by application of the basic district regulations. This includes sustainable development techniques and green architecture, adaptive reuse of existing structures, and cluster development.
5. The proposed exceptions, will not adversely affect the future development of adjacent undeveloped areas.
6. The proposed exceptions, will continue to provide the same protection as the underlying district regulations in regard to fire, health hazards, and other dangers.
7. The proposed exceptions will not adversely affect surface and ground water quality or quantity.
8. The planned development provides a public benefit to the County, as described in § 16.28.060B.

B. Exceptions to district regulations may be granted when such modifications do not negatively impact surrounding property or the provision of municipal services. To be

granted an exception to district regulations within a planned development, the applicant shall demonstrate a substantial benefit to the County. The following amenities are provided as a guide for consideration as to whether to grant an exception to district requirements and are not an exclusive list of requirements. Additional design characteristics and public benefits and amenities not listed below may be considered as part of the approval process.

1. Enhanced design characteristics including, but not limited to, mixed-use development, low-impact development, sustainable development, and green architecture.
2. Community amenities including, but not limited to, outdoor seating, public art, pedestrian and transit facilities, plazas, and community gardens.
3. Preservation of natural areas, sensitive aquifer recharge areas, and natural drainage ways.
4. Historic preservation.
5. Adaptive reuse.
6. Additional active open space and recreational amenities including, but not limited to, recreational open space and playgrounds, dog parks, and natural water features and conservation areas.
7. Additional public infrastructure improvements in addition to the minimum required, included, but not limited to, new or repaved streets, provision of bicycle paths, installation of drainage improvements, and traffic control devices to improve traffic flow.
8. Affordable housing, senior housing, or accessible dwelling units with accessible features beyond what is required by the Americans with Disabilities Act (ADA) or any other applicable codes.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.070 PROCEDURE.**

During the establishment and authorization of a planned development the following procedures, requirements, restrictions, and conditions shall be observed. A planned development requires following both the conditional use permit and the site plan review procedures. The approval of a planned development is a four-step process, which includes a pre-application meeting, concept plan, preliminary plan, and final plan.

Submittal requirements are listed in § 16.28.080 (Submittal Requirements).

##### **A. Pre-Application Meeting.**

1. Prior to filing an application for a planned development, the applicant may attend an optional pre-application meeting with the Staff Plat Review Committee to review the application. Completed application forms, as provided by the Department of Planning and Development, and the payment of fees, as required by the County adopted fee ordinance, are required. An applicant may choose to begin at the preliminary plan stage.
2. At the pre-application meeting, the applicant shall provide information as to the location of the proposed planned development, the proposed uses, proposed public and private improvements, a list of any known requested exceptions to the district requirements, and any other information necessary to clearly explain the planned development. The purpose of the pre-application meeting is to make advice and assistance available to the applicant before preparation of the concept plan, so that it may be determined:
  - a. Whether the proposed planned development appears to be in general compliance with the provisions of this Ordinance and other applicable regulations.
  - b. Whether any zoning exceptions are required in connection with the proposed planned development.
  - c. Whether the proposed planned development is in conformity with the *2030 Comprehensive Plan*, and the development policies of the County.
3. Any opinions or advice provided are in no way binding with respect to any official action that may be taken on the subsequent formal application.

##### **B. Concept Plan.**

1. Before submitting a formal application for a planned development, the applicant shall file an application, pay a fee, as required by the County adopted fee ordinance, and present a concept plan for the purpose of obtaining information and guidance prior to entering into binding commitments or incurring substantial expense.
2. Concept plans shall be submitted to the Department of Planning and Development and scheduled for review by the Staff Plat Review Committee.
3. The Staff Plat Review Committee will review the concept plan and provide a written report on the concept plan to be forwarded to the Zoning Board of Appeals.
4. Following receipt of the Staff Plat Review Committee's report, the Zoning Board of Appeals will review the concept plan, and provide such information and guidance it deems appropriate. Any opinions or advice provided by the Zoning Board of Appeals is not binding with respect to any official action that may be taken on the subsequent formal application.
5. The review of the concept plan is a public meeting. Public comment on the concept plan will be accepted at such meeting.

##### **C. Preliminary Plan.**

1. All applications for planned developments shall submit an application, fee, and five (5) copies of a preliminary plan to be filed with the Department of Planning and Development, which will forward the copies to the Staff Plat Review Committee to be scheduled for review by the Staff Plat Review Committee.
2. The Staff Plat Review Committee will review the preliminary plan and provide a written report on the preliminary plan to be forwarded to the Zoning Board of Appeals.
3. Following receipt of the Staff Plat Review Committee's report, the Zoning Board of Appeals will conduct a public hearing on the preliminary plan and conditional use permit at a public hearing in accordance with § 16.16.040 (Public Hearing), following the procedures for a conditional use permit per § 16.20.040 (Conditional Use). Notice for the public hearing shall be in accordance with § 16.16.030 (Notice).
  - a. In addition to the standards for conditional uses, the Zoning Board of Appeals recommendation shall set forth in what respects the planned development is or is not in the public interest including, but not limited to, findings on the following:
    - (1) The proposed planned development complies with the requirements and standards of this chapter.
    - (2) The site where the planned development is located is adaptable to the proposed development.
    - (3) The proposed planned development will not be detrimental to or endanger the public health, safety, or welfare.
    - (4) The proposed planned development will not be injurious to the use and enjoyment of other property in the vicinity for the purposes already permitted.
    - (5) The proposed planned development will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.
    - (6) If exceptions to the district regulations are requested, the planned development provides public benefits and amenities.
    - (7) There is provision for adequate utilities, stormwater management, off-street parking and loading, and all other necessary facilities.
    - (8) There is provision for adequate vehicular ingress and egress designed to minimize traffic congestion upon public streets.
    - (9) All portions of the proposed planned development that are not to be used for building sites, parking and loading areas, or access ways, are suitably landscaped.
    - (10) The location of the proposed planned development is consistent with the spirit and intent of this Ordinance and the *2030 Comprehensive Plan*.
  - b. The Zoning Board of Appeals shall recommend approval, modified approval, or denial of the preliminary plan and conditional use permit, and forward its recommendation to the County Board.
4. The County Board will consider the preliminary plan and conditional use permit within ninety (90) calendar days of the close of the public hearing, following the procedures for a conditional use permit per § 16.20.040 (Conditional Use). The County Board may approve, approve with modifications, or deny the conditional use permit and preliminary plan.
5. If the preliminary plan and conditional use permit is approved by the County Board, the applicant may submit a final plan.

D. *Final Plan*. The applicant shall file a final plan within one (1) year following the adoption of the final ordinance approving the preliminary plan. The Staff Plat Review Committee will review the final plan and take the following action:

1. *Conformance with Preliminary Plan*. The Staff Plat Review Committee will approve the final plan if it is in substantial compliance with the preliminary plan and all County regulations.

2. *Nonconformance with Preliminary Plan*.

a. If the Staff Plat Review Committee finds that the final plan is substantially changed from the approved preliminary plan, or is otherwise not in accordance with County regulations, then the Staff Plat Review Committee will deny the final plan. The Staff Plat Review Committee will inform the applicant with regard to specific areas found not to be in compliance, and the applicant may resubmit the final plan with changes to those areas found not to be in compliance.

b. Once resubmitted and the Staff Plat Review Committee has determined the final plan to be in substantial compliance with the preliminary plan and with County regulations, the Staff Plat Review Committee will approve the final plan.

E. *Approval of Final Plan*. After the approval of the final plan, the use of the land and the construction, modification, or alteration of any structures within the planned development will be governed by the approved final plan rather than by other provisions of this Ordinance. All subdivision of land within the area of the planned development shall follow the requirements of approved final plan.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.28.080 SUBMITTAL REQUIREMENTS.**

For each step of the planned development approval process, the following submittals are required.

A. *Concept Plan*. At minimum, the concept plan shall consist of the following:

1. A site plan drawn to an appropriate scale and in general form containing:

- a. Proposed land uses and structures.
- b. Natural features of the development site.
- c. Approximate location of all roadways and access drives proposed within the planned development.
- d. Location of all adjacent public streets, thoroughfares, and public utilities.

2. A site location map drawn to an appropriate scale showing the proposed planned development in relation to surrounding streets and property located within six hundred (600) feet in all directions of the development site. The map shall indicate the location, height and land use of all existing structures immediately adjacent to the development site.

3. Schematic drawings showing the size, gross square footage, character, and disposition of structures on the site.

4. A written statement containing:

- a. A general explanation of the planned development.
- b. A statement of the present ownership of all the land within said development.
- c. A schedule setting forth any proposed exceptions to any district requirements.
- d. Proposed public amenities and benefits.

B. *Preliminary Plan*. A preliminary plan for a planned development shall include the following:

1. A site plan, drawn to the appropriate scale, showing:

- a. The location, ground area, height, bulk, and approximate dimensions of all existing and proposed structures within the planned development.
- b. The proposed land uses for existing and proposed structures.
- c. The dimensions of all yards and the distance between structures.

d. The location and dimensions of all pedestrian walkways, driveways, roads, and parking and loading facilities, including the number of parking spaces serving each use and all parking related screening and landscape.

e. A lighting plan for the development.

f. The location and dimensions of any areas proposed to be conveyed, dedicated, or reserved for any other public or quasi-public use, including parks, parkways, playgrounds, school sites, or government facilities.

2. Proof of ownership.

3. A site location map drawn to an appropriate scale showing the proposed planned development in relation to surrounding streets and property located within six hundred (600) feet in all directions of the development site. The map shall indicate the location, height and use of all existing structures immediately adjacent to the development site.

4. Typical building elevations and schematic design presentations indicating the general architectural character of all proposed structures. The drawings need not include final architectural designs.

5. A traffic circulation plan and traffic impact analysis prepared by a qualified professional based on McHenry County Division of Transportation Permit Procedures and Requirements Manual indicating the proposed movement of vehicles, goods and pedestrians within the planned development, and to and from adjacent streets, and the impact of the proposed planned development upon existing traffic patterns. Such studies shall include an examination of the adequacy of on-site parking facilities, vehicular circulation patterns and pedestrian access and safety.

6. A drainage plan prepared by a qualified professional indicating the manner in which drainage will be controlled and managed, consistent with all County regulations and requirements, including but not limited to the McHenry County Stormwater Management Ordinance.

7. A utilities study prepared by a qualified professional indicating the adequacy of the utility systems serving the proposed planned development.

8. A landscape plan prepared by an Illinois licensed landscape architect indicating the general character of all proposed landscape, screening, and fencing, including all open space areas around structures. The landscape plan need not include final designs.

9. A separate schedule setting forth any proposed exceptions to any County regulations and all proposed public benefits and amenities. This schedule shall cite by section number each regulation from which an exception is sought.

10. If the proposed planned development requires a subdivision of land, the planned development shall meet all subdivision regulations.

C. *Final Plan*. A final plan for a planned development shall include the following:

1. A final site plan drawn to an appropriate scale on material suitable for recording with the McHenry County Recorder. The final site plan shall include the following information:

- a. Final designation of the location, ground area, height, bulk, and exact dimensions of all existing and proposed structures within the planned development.
- b. A detailed tabulation of each use, including land and building areas, and, where applicable, the total number of residential dwelling units and the residential density.
- c. The land use for existing and proposed structures.
- d. The dimensions of all setbacks and the distances between all structures.

- e. The final location and dimensions of all pedestrian walkways, driveways, streets, and parking and loading facilities, including the number of parking spaces serving each use and all parking related screening and landscape.
  - f. The exact location and dimensions of any areas proposed to be conveyed, dedicated, or reserved for any other public or quasi-public use, including parks, parkways, playgrounds, school sites, or government facilities.
2. An accurate legal description of the entire lot upon which the planned development is to be located.
  3. All covenants, easements, agreements, and other provisions required to govern the use, maintenance, and continued protection of the planned development, along with an agreement assuring that the applicant, any subsequent owner, or, where applicable, a homeowners association will be responsible for all street, utility, and common open space maintenance within said development.
  4. If the proposed planned development requires a subdivision of land, the planned development shall meet all subdivision regulations.
  5. A detailed landscape plan based on final architectural decisions indicating the specific location and character of all landscape, including the size and species of all trees, shrubs, hedges, and other groundcover, the location, size, and type of all screening and fencing and the location, and the height, design, and illumination characteristics of all lighting within the development.
  6. A detailed utilities and drainage plan based on final architectural decisions indicating the size and location of all drainage and utility facilities required to serve the planned development, and the manner in which drainage will be controlled and managed consistent with all applicable County regulations.
  7. A development and construction schedule indicating the following:
    - a. The date when construction of the planned development will begin. If developed in phases, the date when construction of each phase will begin.
    - b. The date when construction of the planned development will be completed. If developed in phases, the date when construction of each phase will be completed.
  8. Building elevations and schematic design presentations indicating the architectural character of all proposed structures including final architectural designs and prepared in detail.
  9. A sign plan for the planned development.
- (Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.8; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.28.090 CHANGES TO APPROVED FINAL PLANS.**

- A. *Engineering Corrections.*
1. During construction, minor changes required by engineering or other physical site circumstances not foreseen at the time that the final plan was approved but encountered during construction on site, may be authorized by the Zoning Enforcement Officer. The Zoning Enforcement Officer may not approve any changes that violate the underlying zoning or approved exceptions or any conditions attached to the approved planned development.
  2. A revised final site plan shall be submitted with changes indicated by mark-up or red-lined exhibit of the plans showing all amendments to the planned development. The revised final site plan will be reviewed and approved by the Zoning Enforcement Officer.
  3. All changes to the final plan shall be recorded as amendments to the planned development ordinance and a new plan reflecting such changes shall be filed with the Department of Planning and Development noting the date of the changes.
- B. *Minor Changes.*
1. The County Board may approve minor changes to the approved final plan that are not listed as a major change in §16.28.090C. (Major Changes). However, the County Board may not approve any changes that violate the underlying zoning or approved exceptions, or any conditions of approval attached to the approved planned development, with the exception of modifications to a planned development’s time or phasing schedule.
  2. A revised final site plan shall be submitted with minor changes indicated by mark-up or red-lined exhibit of the ordinance and plans showing all amendments to the planned development to the County Board. The County Board will review the revised final site plan, and approve, approve with modifications, or deny the revised final site plan.
  3. All changes to the final plan shall be recorded as amendments to the planned development ordinance and a new plan reflecting such changes shall be filed with the Department of Planning and Development noting the date of the changes.
- C. *Major Changes.* The following major changes require resubmittal of a planned development at the preliminary plan stage, including all application requirements and fees, and shall follow the planned development approval process:
1. A ten percent (10%) or more increase or twenty-five percent (25%) or more decrease in the approved density.
  2. A change in building height over the approved maximum heights.
  3. A significant change in the type, location, and arrangement of uses within the development as shown on the previously approved final plan. A significant change is defined as a change to a land use category, such as residential to commercial uses, single-family dwellings to multifamily dwellings, multifamily dwellings to single-family, and similar land use category changes.
  4. A change in the boundaries of the planned development.
  5. A decrease in open space that was included as a public benefit or amenity.
  6. Any change that violates the underlying zoning or approved exceptions, or any conditions of approval attached to the approved planning development. This does not include modifications to a planned development’s time or phasing schedule, which are considered a minor change.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.9; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.28.100 CONDITIONS AND GUARANTEES.**

Prior to granting any planned development as a conditional use, the Zoning Board of Appeals may recommend and the County Board may stipulate, such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the planned development as deemed necessary to guarantee performance of all conditions.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 7.10; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**CHAPTER 16.32: ZONING DISTRICTS AND MAPS**

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Section	
	16.32.010 Purpose
	16.32.020 Zoning districts
	16.32.030 Official zoning map
	16.32.040 Unclassified land
	16.32.050 Exemptions for public road rights-of-way and public utilities

**§ 16.32.010 PURPOSE.**

The purpose of this chapter is to outline the different zoning districts within this Unified Development Ordinance and establish the Official Zoning Map.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 8.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.32.020 ZONING DISTRICTS.**

In order to carry out the purpose and intent of this Ordinance, the unincorporated area of McHenry County, Illinois, is divided into the following zoning districts:

A. Agricultural Zoning Districts

1. A-1 Agriculture District
2. A-2 Agriculture District

B. Residential Zoning Districts

1. E-5 Estate District
2. E-3 Estate District
3. E-2 Estate District
4. E-1 Estate District
5. R-1 Single-Family Residential District
6. R-2 Two-Family Residential District
7. R-3 Multifamily Residential District

C. Commercial Zoning Districts

1. B-1 Neighborhood Business District
2. B-2 Neighborhood Business District
3. B-3 General Business District

D. Office and Industrial Zoning Districts

1. O Office/Research District
2. I-1 Light Industrial District
3. I-2 Heavy Industrial District

E. Overlay Zoning Districts

1. Sensitive Aquifer Recharge Areas (SARA) Overlay District
2. Class III Special Resource Groundwater Protection Areas Overlay District
3. Legacy Waterfront Neighborhood Overlay District

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 8.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.32.030 OFFICIAL ZONING MAP.**

A. The Official Zoning Map of McHenry County, Illinois, is incorporated into this Unified Development Ordinance.

B. The following rules are used to determine the precise location of any zoning district boundary shown on the Official Zoning Map.

1. Boundaries shown as following or approximately following the limits of any municipal corporation or McHenry County are construed as following such limits.
2. Boundaries shown as following or approximately following streets are construed as following the centerlines of such streets.
3. Boundary lines shown as following or approximately following platted lot lines or other property lines as designated in the official County plat books are construed as following such lines.
4. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines are construed as following such lines.
5. Boundaries shown as following or approximately following railroad lines are construed to lie midway between the main track of such railroad line.
6. Boundaries shown as following or approximately following shorelines of any lakes are construed as following the mean high water lines of such lakes. In the event of change in the mean high water line, boundaries are construed as moving with the actual mean high water line.
7. Boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing watercourses are construed as following the channel centerline of such watercourses taken at mean low water line. In the event of a natural change in the location of such streams, rivers, or other watercourses, the boundary is construed as moving with the channel centerline.
8. Boundaries shown as separated from and parallel or approximately parallel to any of the features listed in this section, are construed to be parallel to such features and from such distance as shown on the map. Distances not specifically indicated on the map are determined by the scale of the map.

C. All streets, alleys, public ways, and railroad rights of way, if not otherwise specifically designated, are deemed to be in the same zoning district as the property immediately abutting said streets, alleys, public ways, and railroad rights of way.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 8.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.32.040 UNCLASSIFIED LAND.**

Any land located now or in the future outside of municipalities or villages not shown to be included in a zoning district on the Official Zoning Map is deemed to be in the A-1 District. Unclassified land is subject to the requirements of the A-1 District, unless otherwise rezoned or controlled by a court decision.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 8.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.32.050 EXEMPTIONS FOR PUBLIC ROAD RIGHTS-OF-WAY AND PUBLIC UTILITIES.**

A. The provisions of this Ordinance do not apply to land located within rights-of-way dedicated to the state, county, or township for public road use. The applicable management agency may have regulations that apply to such public rights-of-way.

B. The provisions of this Ordinance do not apply to uses, buildings, or structures, including poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, hydrants, valves, water supply wells, or any other similar distributing equipment, of a public utility as defined in the Public Utilities Act (220 ILCS 5/), if the public utility is subject to the

Messages Tax Act (35 ILCS 610/), the Gas Revenue Tax Act (35 ILCS 615/), or the Public Utilities Revenue Act (35 ILCS 620/), or if such facilities or equipment are located on any rights-of-way and are used for railroad purposes.

1. This exemption does not include: permanent aboveground structures used for distribution to consumers of communications, wireless telecommunications structures; amateur radio towers; solar panels; or, wind turbines. Additionally, the exemption does not extend to entities that do not meet the definition of a public utility in the Public Utilities Act (220 ILCS 5/), including utilities owned and operated by any political subdivision, public institution of higher education, or municipal corporation; private companies for the distribution of water or disposal of sewage; and any qualifying facility as defined in the Public Utility Regulatory Policies Act (PURPA—16 US Code Ch. 46). All such structures must comply with this Ordinance and any other applicable County ordinances.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 8.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.32.060 ZONING DISTRICT USES.**

Table 16.32-1: Zoning District Uses lists permitted, conditional, and temporary uses for the zoning districts of this Ordinance.

- A. A "P" indicates that a use is permitted within that district.
- B. A "C" indicates that a use is a conditional use in that district and must obtain a conditional use permit approval.
- C. A "T" indicates that a use is a temporary use in that district and must obtain a temporary use permit approval.
- D. No letter, or the absence of the use from the table, indicates that use is not permitted within that district.

E. Certain uses are defined to be inclusive of many uses in order to eliminate an overly detailed lists of uses. When a use meets a specific definition, it is regulated as such and it shall not be regulated as a generic use. A use that is not specifically listed in a zoning district, does not fall within a use definition, or is interpreted pursuant to § 16.20.070 (Zoning Interpretations) as not part of a use definition, is prohibited.

TABLE 16.32-1: ZONING DISTRICT USES																
Principal Use	A- 1	A- 2	E- 5	E- 3	E- 2	E- 1	R- 1	R- 2	R- 3	B- 1	B- 2	B- 3	O	I- 1	I- 2	Use Standards
TABLE 16.32-1: ZONING DISTRICT USES																
Principal Use	A- 1	A- 2	E- 5	E- 3	E- 2	E- 1	R- 1	R- 2	R- 3	B- 1	B- 2	B- 3	O	I- 1	I- 2	Use Standards
Adult Use														C	C	16.56.030A.
Agricultural Implement Sales and Service	C											P		P	P	
Agricultural Produce Processing	P	P												P	P	16.56.030WW.
Agriculture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	16.56.030B.
Agriculture Employee Housing <sup>1</sup>	C	C														16.56.030C.
Agritourism, Limited	P	P								P	P	P				16.56.030D.
Agritourism, Intensive	C	C								C	C	P				16.56.030E.
Airport - Public Use or Private Use														C	C	16.56.030F.
Alcoholic Beverages - Consumption On-Premise										P	P	P				
Alcoholic Beverages - Package Sales										P	P	P				
Amphitheater												P		P	P	
Amusement Facility, Indoor										P	P	P		P	P	
Amusement Facility, Outdoor										C	C	P		C	C	16.56.030G.
Amusement Park												C				
Animal Care Shelter	P									P	P	P		P		16.56.030X.
Arena												C		P	P	
Art Gallery	C									P	P	P	P			
Arts Studio	C									P	P	P				
Asphalt/Concrete Batch Facility	C														P	
Athletic Facility, Indoor										P	P	P	P	P	P	
Athletic Facility, Outdoor	C									C	C	C	C	C	C	
Auction House												P		P	P	
Auto Dealership										P	P	P		P		
Auto Rental										P	P	P	P	P		
Auto Repair - Major												P		P	P	16.56.030H.
Auto Repair - Minor	C									P	P	P		P	P	16.56.030H.
Bed and Breakfast	C	C	C	C	C	C	C	C	C	C	C	C				
Boarding House							C	C	P							16.56.030XX.
Broadcasting Studio												P	P	P		
Campground	C															16.56.030I.
Cannabis Craft Grower	P	P								C	C	C		C	C	16.56.030 CC.

Cannabis Cultivation Center	P	P														16.56.030 CC.
Cannabis Dispensary	C	C								C	C	C				16.56.030 CC.
Car Wash										C	C	P				
Cemetery/Cemetery, Pet	C															16.56.030J .
Club/Lodge	C									P	P	P	P			
Community Center <sup>2</sup>			C	C	C	C	C	C	C	P	P	P	P			
Conservation Area	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Country Club	C		C	C	C	C										
Crematorium												C		P	P	
Cultural Facility	C		C	C	C	C	C	C	C	P	P	P				
Currency Exchange										P	P	P				
Day Camp	C		C	C	C	C										16.56.030K.
Day Care Center										P	P	P	P	P		16.56.030L.
Day Care Home	P	P	P	P	P	P	P	P	P							16.56.030M.
Drive-In Theater	C															16.56.030N.
Dwelling, Mixed Use										P	P	P	P	P		
Dwelling Unit, Ancillary	P	P	P	P	P	P	P	P	P							16.56.030O.
Dwelling, Multifamily									P							
Dwelling, Single-Family	P	P	P	P	P	P	P	P	P							
Dwelling, Two-Family								P	P							
Earth Extraction/Mining	C													C	C	16.56.030P.
Educational Facility, College/University /Technical	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	
Educational Facility, Preschool through High School	P		P	P	P	P	P	P	P	P	P	P				
Exotic Animal Breeding and Training	C									P	P	P				
Fairground	C															16.56.030Q.
Farm Chemical and Fertilizer Sales	C													C	P	
Farmers Market										P	P	P	P	P		
Farmstand	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	16.56.030R.
Farrier	P	P	P	P												
Feed, Tack, Grain, and Seed Sales	P									P	P	P				
Financial Institution										P	P	P	P			
Flea Market												C				16.56.030S .
Food Processing	C													P	P	
Freight Terminal														C	P	
Funeral Home										P	P	P				
Game Preserve	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Garden Center	C									P	P	P				
Gas Station										P	P	P		P		
Golf Course/Driving Range - Commercial	C	C	C	C	C	C	C	C	C			P				
Government Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	16.56.030T.
Grain Elevator - Commercial	P													P	P	
Greenhouse/Nursery Business	P	P								P	P	P				16.56.030U.
Group Home	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P						16.56.030YY.
Halfway House	C	C	C	C	C	C	C	C	C							
Heavy Retail Sales and Service												P		P	P	
Heliport/Helistop - Public Use or Private Use												C	C	C	C	16.56.030F.



Homeless/Domestic Violence Shelter	C	C	C	C	C	C	C	C	C							
Horse Arena, Indoor/Outdoor	P	P	P	P	P	P								P	P	
Horse Racing Spectator Sport Event for a Commercial Purpose												C		C	C	
Horse Stables	P	P	P	P	P	P								P	P	16.56.030V.
Hospital			C	C	C	C	C	C	C	C	C	C	C			
Hotel/Motel										P	P	P	P			16.56.030W.
Household Hazardous Waste Collection Facility												C		P	P	
Industry, Heavy															P	
Industry, Light														P	P	
Kennel - Commercial	C		C							P	P	P		P		16.56.030X.
Laboratory												P	P	P	P	
Landing Area, Restricted	C												C	C	C	16.56.030Y.
Landing Area, Restricted - Personal Use	C	C	C										C	C	C	16.56.030Y.
Landscape Business - No Outdoor Storage	P									P	P	P		P	P	16.56.030Z.
Landscape Business - With Outdoor Storage	C									C	C	P		P	P	16.56.030Z.
Landscape Waste Composting Facility	C													P	P	16.56.030AA.
Landscape Waste Transfer Facility	C													C	P	
Lumber Yard												P		P	P	
Marina										C	C	P		P		16.56.030BB.
Massage Therapy Center										P	P	P	P			
Medical/Dental Clinic										P	P	P	P			
Mini-Warehouse												P		P	P	
Mobile Home Park								C								16.56.030DD.
Office										P	P	P	P	P	P	
Off-Premise Commercial Advertising Sign - Digital										C	C	C	C	C	C	16.56.030EE.
Off-Premise Commercial Advertising Sign - Non-Digital <sup>3</sup>										P	P	P	P	P	P	16.56.030EE.
Offsite Services Business										C	C	P		P	P	
Park	C		P	P	P	P	P	P	P	C	C	C	C	C	C	
Parking Lot (Principal Use)										P	P	P	P	P	P	
Parking Structure (Principal Use)										P	P	P	P	P	P	
Passenger Terminal										P	P	P	P	P		
Pawn Shop												P				
Personal Service Establishment										P	P	P	P			
Place of Worship	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	16.56.030FF.
Planned Development			C	C	C	C	C	C	C	C	C	C	C	C	C	Ch. 16.28
Pollution Control Facility															C	16.56.030GG.
Poultry and Small Animal Processing Plant														P	P	16.56.030HH.
Power Production	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	16.56.030II.
Printing Establishment												P	P	P	P	
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Public Safety Training Facility	C											P	C	P	P	16.56.030JJ.
Reception Facility	C									P	P	P				
Recreational Vehicle Sales												P		P		
Recycling Collection Center												C		P	P	16.56.030KK.

Recycling Processing Facility														C	P	16.56.030LL.
Residential Care Facility			C	C	C	C	C	C	P	C	C	P				16.56.030MM.
Resort	C											P				
Restaurant										P	P	P	P	P	P	
Retail Goods Establishment										P	P	P	P			
Salvage Yard														C	C	16.56.030NN.
Sawmill	C													C	P	
Shooting Range, Indoor - Commercial													C		C	P
Shooting Range, Outdoor - Commercial	C												C			16.56.030OO.
Solar Farm	C													C	C	C
Storage Yard													C		P	P
Temporary Agritourism Event	T	T								T	T	T	T	T	T	16.56.040A.
Temporary Contractor's Office	T		T	T	T	T	T	T	T	T	T	T	T	T	T	16.56.040B.
Temporary Emergency Residence	T	T	T	T	T	T	T	T	T							16.56.040C.
Temporary Entertainment Event	T									T	T	T	T	T		16.56.040D.
Temporary Farmers Market	T	T	T							T	T	T	T	T		16.56.040E.
Temporary Fireworks Display	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	16.56.040F.
Temporary Homeless/Domestic Violence Shelter	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	16.56.040G.
Temporary Portable Asphalt/Concrete Batch Plant	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	16.56.040H.
Temporary Real Estate Project Sales Office			T	T	T	T	T	T	T	T	T	T	T	T	T	16.56.040I.
Temporary Sales Event	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	16.56.040J.
Tower and Antenna - Class I	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	16.56.030RR.
Tower and Antenna - Class II	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	16.56.030RR.
Tower and Antenna - Wireless Telecommunication s Carrier	P	P	P	P	P	P	P			P	P	P	P	P	P	16.56.030SS.
Truck Wash													P		P	P
Vacation Rental	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C						16.56.030VV.
Veterinary Clinic - Small and Large Animals	C											P	P	P		
Veterinary Clinic - Small Animal Only												P	P	P		
Warehouse												P	P	P		P
Well, Oil, Gas, or Water - Commercial	C	C													C	C
Wholesale Establishment														P		P
Wind Energy System, Large	C	C										C	C	C	C	16.56.030TT.
Wind Energy System, Micro	P	P	C	C	C	C	C	C	C	C	C	C	C	C	P	C
Wind Energy System, Mid-Size	C	C	C									C	C	C	C	16.56.030TT.
Winery/Brewery/Distillery <sup>4</sup>													P	P		16.56.030UU.
Zoo														C		

1 Mobile homes may be placed on a property to provide housing for (an) agricultural worker(s) without a Conditional Use Permit subject to approval of an agricultural trailer permit in accordance with § 16.56.030 C.5.

2 Homeowner or condominium owner association community centers included in the subdivision covenants and restrictions are allowed by right.

3 A Conditional Use Permit may be required for Non-Digital Off-Premise Commercial Advertising Sign subject to § 16.56.030 EE.

4 Allowed in additional zoning districts as part of a Intensive Agritourism operation.

## CHAPTER 16.36: AGRICULTURAL ZONING DISTRICTS

### Section

- 16.36.010 Zoning districts purpose statements
- 16.36.020 A-2 District rezoning standards
- 16.36.030 Zoning district uses
- 16.36.040 Bulk and setback regulations
- 16.36.050 General standards of applicability

### § 16.36.010 ZONING DISTRICTS PURPOSE STATEMENTS.

A. *Agricultural Zoning Districts.* Properties in agricultural zoning districts are located in areas where land is used for commercial agricultural production. Owners, residents, and other users of property in or adjoining these districts may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the application of fertilizers, soil amendments, herbicides, and pesticides. Therefore, owners, occupants, and users of property within and adjacent to these areas should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that the Illinois "Right to Farm Law" (Farm Nuisance Suit Act 740 ILCS 70/) may bar them from obtaining a legal judgement against such normal agricultural operations.

1. *Purpose of A-1 Agriculture District.* The intent of the A-1 Agriculture District is to permit agricultural purposes and activities. Residences are allowed on large agricultural parcels within the County. The standards of the A-1 District promote the continuation of farming and protect agricultural land uses from the encroachment of incompatible uses.

2. *Purpose of A-2 Agriculture District.* The intent of the A-2 Agriculture District is to permit individual single-family residences within agricultural portions of the County. All residences within this district must be compatible with surrounding agricultural operations, and must maintain, preserve, and enhance agricultural activities. Any zoning map amendments to the A-2 District must meet the standards of § 16.36.020 (A-2 District Rezoning Standards).

#### B. Residential Zoning Districts.

1. *Purpose of the E-5 Estate District.* The intent of the E-5 Estate District is to accommodate single-family residences on a minimum of five (5) acres that, due to topography and location, are well suited for single-family use. The E-5 District is intended to be located in close proximity to municipalities or historic town centers where infrastructure and services are readily accessible, to encourage the compact and contiguous development policy of the 2030 Plan, and shall take into consideration the densities of the adjacent municipality.

2. *Purpose of the E-3 Estate District.* The intent of the E-3 Estate District is to accommodate single-family residences on a minimum of three (3) acres that, due to topography and location, are well suited for single-family use. The E-3 District is intended to be located in close proximity to municipalities or historic town centers where infrastructure and services are readily accessible, to encourage the compact and contiguous development policy of the 2030 Plan, and shall take into consideration the densities of the adjacent municipality.

3. *Purpose of the E-2 Estate District.* The intent of the E-2 Estate District is to accommodate single-family residences on a minimum of two (2) acres that, due to topography and location, are well suited for single-family use. The E-2 District is intended to be located in close proximity to municipalities or historic town centers where infrastructure and services are readily accessible, to encourage the compact and contiguous development policy of the 2030 Plan, and shall take into consideration the densities of the adjacent municipality.

4. *Purpose of the E-1 Estate District.* The intent of the E-1 Estate District is to accommodate single-family residences on a minimum of one (1) acre that, due to topography and location, are well suited for single-family use. The E-1 District is intended to be located in close proximity to municipalities or historic town centers where infrastructure and services are readily accessible, to encourage the compact and contiguous development policy of the 2030 Plan, and shall take into consideration the densities of the adjacent municipality.

5. *Purpose of the R-1 Single-Family Residential District.* The intent of the R-1 Single-Family Residential District is to accommodate a single-family residential use on lots a minimum of one-half (½) acre in size. The R-1 District is for areas of higher residential density, located in close proximity to municipalities or historic town centers where services are available and more accessible.

6. *Purpose of the R-2 Two-Family Residential District.* The intent of the R-2 Two-Family Residential District is to accommodate both single-family and two-family residential uses on lots a minimum of one (1) acre in size. The R-2 District is for areas of higher residential density, located in close proximity to municipalities or historic town centers where services are available and more accessible.

7. *Purpose of the R-3 Multifamily Residential District.* The intent of the R-3 Multifamily Residential District is to provide for multifamily residential use in areas where central utilities, facilities, and services exist. The R-3 District is for areas of higher residential density, located in close proximity to municipalities or historic town centers where services are available and more accessible.

#### C. Commercial Districts.

1. *Purpose of the B-1 Neighborhood Business District.* The intent of the B-1 Neighborhood Business District is to provide access to commercial uses for adjacent residential areas, satisfying the basic shopping or service needs of residents. Dwellings are permitted above or behind ground-floor commercial uses to allow for a mixed-use environment.

2. *Purpose of the B-2 Neighborhood Business District.* The intent of the B-2 Neighborhood Business District is to provide access to commercial uses for adjacent residential areas, satisfying the basic shopping or service needs of residents, and to accommodate businesses that serve alcoholic beverages for consumption on-site, as well as package liquor sale. Dwellings are permitted above or behind ground-floor commercial uses to allow for a mixed-use environment.

3. *Purpose of the B-3 General Business District.* The intent of the B-3 General Business District is to accommodate commercial uses that cater to the needs of the population from the larger region. The B-3 District allows more intense non-residential uses, which are often larger in scale and typically generate truck traffic. Dwellings are permitted above or behind ground-floor commercial uses to allow for a mixed-use environment.

#### D. Office and Industrial Districts.

1. *Purpose of the O Office/Research District.* The intent of the O Office/Research District is to accommodate office and research facilities and other related non-manufacturing activities in a campus-like environment. The O District is generally located near or adjacent to municipalities. Dwellings are permitted above or behind ground-floor office uses to allow for a mixed-use environment.

2. *Purpose of the I-1 Light Industrial District.* The purpose of the I-1 Light Industrial District is to provide for a wide variety of light manufacturing, fabricating, processing, research, wholesale distributing, and warehousing uses. Light industrial uses are enclosed low-intensity, non-nuisance light fabrication, and assembly-type manufacturing, as well as research facilities with little to no outside impacts. The industrial zoning districts are generally located away from residential development and near transportation facilities and municipalities. Dwellings are permitted above or behind ground-floor light industrial uses to allow for a mixed-use environment, typically for caretaker residences.

3. *Purpose of the I-2 Heavy Industrial District.* The purpose of the I-2 Heavy Industrial District is to provide for a wide variety of general manufacturing, fabricating, processing, wholesale distributing, and warehousing uses. General industrial uses include fabrication, warehousing, and assembly-type manufacturing, as well as office and research facilities, which may result in some moderate external effects such as smoke, noise, glare, or vibration, and typically include outdoor storage and related outdoor activities. The industrial zoning districts are generally located away from residential development and near transportation facilities and municipalities.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 9.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.36.020 A-2 DISTRICT REZONING STANDARDS.

In addition to meeting the standards for a map amendment in §16.20.010 (Zoning Map and Text Amendment), all rezonings to the A-2 District must meet the following



							All other: 10'	All other: 20'	All other: 20'
1	Lots located on cul-de-sacs may have a lot frontage of not less than 50% of the district standard or 75-feet, whichever is greater.								
2	Additional restrictions on impervious surface coverage apply in the SARA and Class III Overlay Districts.								
3	The minimum street setback shall be at least ninety (90) feet from the centerline of a Regional Transportation Corridor as identified in Appendix D.								
4	Refer to §16.80.050D. for reduced setbacks for nonconforming lots.								
5	For a flag or a land-locked lot or parcel, the setback is measured from the main building site, excluding the narrow corridor access strip or any access easement.								
6	Increased side, rear, and flag-lot/parcel perimeter setbacks when abutting certain districts applies to both principal and accessory structures.								

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 9.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.36.050 GENERAL STANDARDS OF APPLICABILITY.**

- A. *Accessory Structures and Uses.* See § 16.56.050 (Accessory Structure and Use Standards) for permissions and standards for accessory structures and uses.
- B. *Permitted Encroachments.* See Chapter 16.60 (Site Development Standards) for permissions and standards for encroachments into required yards.
- C. *Off-Street Parking and Loading.* See Chapter 16.64 (Off-Street Parking and Loading) for off-street parking and loading requirements and standards.
- D. *Landscape.* See Chapter 16.60 (Site Development Standards) for landscape requirements and standards.
- E. *Signs.* See Chapter 16.72 (Signs) for sign permissions and standards.
- F. *Sewage Disposal.* See the McHenry County Public Health Ordinance.
- G. *Water Supply.* See the McHenry County Public Health Ordinance.
- H. *Stormwater Management.* See McHenry County Stormwater Management Ordinance.
- I. *Access Management.* See McHenry County Access Control and Right-of-Way Management Ordinance.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 9.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**CHAPTER 16.40: RESERVED**

*Editor's note: The provisions in former Chapter 16.40: Residential Zoning Districts can now be found interspersed throughout this title.*

**CHAPTER 16.44: RESERVED**

*Editor's note: The provisions in former Chapter 16.44: Commercial Zoning Districts can now be found interspersed throughout this title.*

**CHAPTER 16.48: RESERVED**

*Editor's note: The provisions in former Chapter 16.48: Office and Industrial Zoning Districts can now be found interspersed throughout this title.*

**CHAPTER 16.52: OVERLAY ZONING DISTRICTS**

Section

- 16.52.010 Purpose
- 16.52.020 Regulations of the Base Zoning District
- 16.52.030 Sensitive Aquifer Recharge Area (SARA) and Class III Special Resource Groundwater Protection Areas Overlay Districts
- 16.52.040 Legacy Neighborhood Overlay District

**§ 16.52.010 PURPOSE.**

Overlay zoning districts create special controls in certain areas of the County that have special characteristics or development issues. The intent of an overlay district is to provide common controls over areas that require a specific type of zoning control in addition to the regulations of the base zoning district.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 13.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.52.020 REGULATIONS OF THE BASE ZONING DISTRICT.**

Unless modified by the overlay district regulations, the regulations of the base zoning district apply.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 13.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.52.030 SENSITIVE AQUIFER RECHARGE AREA (SARA) AND CLASS III SPECIAL RESOURCE GROUNDWATER PROTECTION AREAS OVERLAY DISTRICTS.**

A. *Purpose.*

1. *SARA Overlay District Purpose.* As aquifers are the only source of potable water supply in McHenry County, the County desires to protect this sensitive natural resource through the creation of the Sensitive Aquifer Recharge Area (SARA) Overlay District. The intent of the SARA Overlay District is to provide development standards that protect, preserve, and maintain the most sensitive recharge areas within the unincorporated County. The SARA Overlay District implements the Water Resources Action Plan to prevent damage to the soil's natural recharge ability.

2. *Class III Special Resource Groundwater Protection Areas Purpose.* The Illinois Pollution Control Board designates Class III Special Resources Groundwater Protection Areas to groundwater that is demonstrably unique and suitable for application of a water quality standard more stringent than otherwise applicable, is vital for a particularly sensitive ecological system, or contributes to a dedicated Illinois Nature Preserve. The Class III Special Resources Groundwater Protection Areas Overlay District is intended to

provide development standards that protect these water resources from the potential negative impacts of development.

**B. Mapping.**

1. *SARA Overlay District Mapping.* Mapping of the SARA Overlay District is established by the McHenry County Water Resources Action Plan, adopted on October 18, 2011, and as may be amended from time to time. Said map is included as Appendix B of this Ordinance for reference.

2. *Class III Special Resource Groundwater Protection Areas Mapping.* The Class III Overlay District consists of all areas designated as Class III Special Resources Groundwater Protection areas identified by the Illinois Pollution Control Board, and as may be amended from time to time. Said map is included as Appendix B of this Ordinance for reference.

**C. On-Site Verification and Review.**

1. *SARA On-Site Verification and Review.* If a property owner can provide evidence that their property does not have the characteristics of a sensitive aquifer recharge area, and, the Zoning Enforcement Officer concurs with the evidence submitted by the property owner, the provisions of the SARA Overlay District do not apply to the site. In order to be considered, the evidence must include soil or geologic study analysis, made by a hydrogeologist or other qualified professional, which was conducted in a manner consistent with the SARA mapping methodology. The County may seek independent expert opinion regarding the geologic analysis and conclusions.

2. *Class III Special Resource Groundwater Areas On-Site Verification and Review.*

a. A property owner may submit legal descriptions or survey data documenting the location of their property relative to the location of a Class III Special Resources Groundwater Protection area as designated by the Illinois Pollution Control Board for the purpose of documenting that their property is not located within a Class III Special Resources Groundwater Protection area. If the Zoning Enforcement Officer concurs with the information submitted by the property owner, the provisions of the Class III Overlay District do not apply to the property.

D. *Restricted Uses.* The following uses are prohibited or have additional restrictions when the property to be developed includes SARA Overlay District or Class III Special Groundwater Resource Areas Overlay District:

1. The following types of pollution control facilities are prohibited:

- a. Radioactive waste sites.
- b. Municipal solid waste landfills.
- c. Special or hazardous waste landfills.

2. Clean construction and demolition debris facilities, as defined by the State of Illinois are prohibited unless the following standards are met:

a. The use shall comply with all state regulations and permit requirements.

b. Quarterly groundwater sampling shall be conducted by Illinois licensed professional engineers or Illinois licensed professional geologists. The Zoning Enforcement Officer shall approve the groundwater monitoring plan.

3. Permanent asphalt/concrete batch plants are prohibited unless the following standards are met:

a. The use shall comply with all state regulations and permit requirements.

b. Quarterly groundwater sampling shall be conducted by Illinois licensed professional engineers or Illinois licensed professional geologists. The Zoning Enforcement Officer shall approve the groundwater monitoring plan. This criteria can be satisfied if the asphalt/concrete batch plant is located within an earth extraction and/or mining site with an approved groundwater monitoring plan.

4. Salvage yards are prohibited unless the following standards are met:

a. A salvage yard shall be located, conformed, drained, and managed so that it will not constitute a source of water pollution.

b. A pollution prevention plan is required and shall be approved by the County, and shall comply with all local, federal, and state environmental rules and regulations.

5. Class V underground injection wells, as defined by the State of Illinois, are prohibited, unless the following standards are met:

a. Dry wells may be installed as part of an approved stormwater management facility if designed, installed, and maintained in accordance with the McHenry County Stormwater Management Ordinance, including any applicable requirements for pretreatment of stormwater runoff.

b. On-site wastewater treatment systems may be installed if designed, installed, and maintained in accordance with the McHenry County Public Health Ordinance.

c. Geothermal systems may be installed if designed, installed, and maintained in accordance with the applicable County building codes, state plumbing, and state water well construction codes.

6. Manufacturing and warehouse facilities that store any hazardous substance identified in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) in quantities equal to or greater than their reportable quantity as identified in Title 40: Protection of Environment, § 302.4: Designation of hazardous substances, are prohibited, unless said hazardous substances are for earth extraction and/or mining or agricultural purposes.

**E. Development Standards.**

1. When the property to be developed includes SARA Overlay District or any Class III Special Resource Areas Overlay District, the following standard applies:

a. The maximum impervious surface coverage is limited to the lesser of the maximum impervious surface area allowed in the zoning district or fifty percent (50%), but in no case shall more than fifty percent (50%) of the SARA Overlay District area on site be made impervious.

2. When the property to be developed contains any Class III Special Resource Areas Overlay District, the property owner shall submit the proposed development plans to the Illinois Environmental Protection Agency prior to the site plan review process.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, §§ 13.3, 13.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.52.040 LEGACY NEIGHBORHOOD OVERLAY DISTRICT.**

A. *Purpose.* McHenry County contains several unincorporated areas, including waterfront and water-adjacent residential subdivisions and neighborhoods, that developed prior to the introduction of zoning and subdivision standards. The legacy of the historical pattern of development in these areas are thousands of lots that do not conform with current zoning district size and frontage requirements. The Legacy Neighborhood (LN) Overlay District is intended to accommodate redevelopment and rehabilitation of residential structures on nonconforming lots and parcels created before the effective date of this Ordinance, which are the result of historical patterns of development, by providing supplemental development standards. Application of LN Overlay District supplemental standards does not affect allowed principal uses, which are controlled by the base zoning district or § 16.80.030 (Nonconforming Uses), as applicable.

**B. Eligibility of Lots and Parcels.**

1. For a lot or parcel to be eligible for the LN Overlay District supplemental standards, it must meet the following criteria.

a. The lot or parcel must be located within a LN Overlay District mapped area (see Appendix B).

b. The lot or parcel must be a nonconforming lot or parcel (per § 16.80.050) in an A-1 Agricultural Zoning District or an R-1 or R-2 Residential Zoning District.

c. The lot or parcel must contain, as a principal structure, a residence that was present as of the effective date of this Ordinance (October 22, 2014).

2. Lots and parcels are ineligible for the LN Overlay District supplemental standards if any of the following apply.

a. The lot or parcel does not meet all of the criteria of § 16.52.040B.1.

b. The lot or parcel has been joined with adjacent lots or parcels under common ownership by means of deed restriction or development that extends from one lot or parcel onto the next and which together do not meet all of the criteria of § 16.52.040B.1.

c. The lot or parcel has lost its eligibility. In such cases, the criteria of §16.52.040B.1. were initially met, but are not at present. This can occur when a lot or parcel: is no longer within a LN Overlay District area due to subsequent map revisions; is split, subdivided, or rezoned; or when the residence is removed without providing notice to rebuild concurrently with a demolition permit application or within 90 days of involuntary destruction.

3. Any development on an ineligible lot or parcel must conform all standards of the base zoning district or obtain the required variance(s).

C. *LN Overlay District Supplemental Standards.* LN Overlay District supplemental standards are a set of allowances and flexibilities affecting standards for development, the rules for nonconforming structures, and the rules for accessory structures. Owners of eligible lots or parcels (see § 16.52.040B.) may either follow the LN Overlay District supplemental standards or the standards established by the base zoning district regarding construction, alteration, or rehabilitation of structures. The two sets of development standards cannot be used in combination.

1. *Supplemental Standards for All Structures.* Existing structures which were lawfully constructed, or which qualify as a nonconforming structure per § 16.80.040A., may be replaced, altered, or rehabilitated so long as the new structure does not exceed the footprint, height, and setbacks of the existing structure, when such development does not comply with Table 16.52-1: LN Overlay District Bulk and Setback Regulations

2. *Supplemental Standards for Principal Structures.* Principal structures may be rehabilitated, replaced, altered, or expanded so long as such development complies with Table 16.52-1: LN Overlay District Bulk and Setback Regulations.

<b>TABLE 16.52-1: LN OVERLAY DISTRICT BULK &amp; SETBACK REGULATIONS</b>		
	<b>Principal Structures</b>	<b>Accessory Structures</b>
<b>TABLE 16.52-1: LN OVERLAY DISTRICT BULK &amp; SETBACK REGULATIONS</b>		
	<b>Principal Structures</b>	<b>Accessory Structures</b>
<b>BULK REGULATIONS</b>		
Maximum Building Height	35'	See § 16.52.040C.3.a.
Maximum Building Coverage <sup>1</sup>		30%
Maximum Impervious Surface		50%
<b>SETBACK REGULATIONS - All measurements are to the closest point of the structure.</b>		
Minimum Street Setback	See § 16.60.010C.1.a..	See § 16.52.040C.3.b.
Minimum Corner Side Setback	20'	See § 16.52.040C.3.b.
Minimum Interior Side Setback	5'	5'
Minimum Waterfront Side Setback <sup>2</sup>	0'	0'
Minimum Combined Side Setback	Lesser of 15' or 30% of lot width	n/a
Minimum Rear Setback	10'	5'
Minimum Waterfront Rear Setback <sup>2</sup>	0'	0'
Minimum Space Between Buildings At Side/Rear Lot Line <sup>3</sup>	10'	7'
Flag Lot/Parcel or Land-Locked Lot/Parcel Perimeter Setback <sup>4</sup>	10'	5'
<sup>1</sup> Calculated by excluding all lot area in floodway. <sup>2</sup> Subject to 16.60.010.C.3.a <sup>3</sup> As measured from building wall. <sup>4</sup> For a flag or a land-locked lot or parcel, the setback is measured at perimeter of the main building site and excludes the narrow corridor access strip or any access easement.		

3. *Supplemental Standards for Accessory Structures.* Accessory structures may be rehabilitated, replaced, altered, or expanded so long as such development complies with Table 16.52-1 and the following criteria.

a. Structure height, measured at the highest point of the roof, is limited to fourteen (14) feet for a flat or mansard roof design and eighteen (18) feet for a pitched roof design for new construction. Existing structures may be replaced at the existing structure height, per § 16.52.040C.1.

b. Accessory structures are prohibited in an effective street yard, unless any of the following criteria are met:

i. The accessory structure is located a minimum of fifty (50) feet from the street lot line.

ii. The accessory structure is a detached garage on a waterfront lot or parcel located a minimum of thirty (30) feet from the street lot line, or, it meets the average setback of existing detached garages on the same side of the blockface when sixty percent (60%) of that blockface is developed. For blockfaces that extend more than six hundred (600) feet, only the lots located within three hundred (300) feet of either side of the lot shall be considered. In no case shall a setback be reduced to less than ten (10) feet from the street lot line.

iii. The accessory structure is a solid fence on a waterfront lot or parcel, no more than six (6) feet in height, and located no closer to the street than a detached garage which is nonconforming or complies with the above setback requirements. In no case shall a setback be reduced to less than ten (10) feet from the street lot line.

c. A garage may be erected on a vacant non-contiguous property directly across the street from a waterfront lot or parcel containing the residence to which it is an accessory when a deed restriction has been recorded stating that the two lots or parcels shall not be sold separately unless the garage is first removed from the property. Minimum setback requirements established in this section shall apply.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 13.5, 13.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018; Ord. O-201911-ZBA-057, passed 11-19-2019)

## CHAPTER 16.56: USE STANDARDS

Section

- 16.56.010 Purpose
- 16.56.020 Use of land and structures
- 16.56.030 Principal use standards
- 16.56.040 Temporary use standards
- 16.56.050 Accessory structure and use standards

**§ 16.56.010 PURPOSE.**

The purpose of this chapter is to set forth additional requirements for certain uses of land. These standards are intended to ensure that the use is compatible with the surrounding area.



Nothing in this chapter shall be construed as limiting or prohibiting the ability of the County Board to impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of a conditional use as deemed necessary for the protection of the public interest.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 14.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.56.020 USE OF LAND AND STRUCTURES.**

- A. A structure or land shall be used or occupied in conformity with the regulations for the zoning district in which it is located.
- B. The use standards of this section apply to uses allowed in the zoning districts, whether considered permitted, conditional, or temporary. Uses shall comply with all standards of this Ordinance.
- C. Noncompliance with any of these use standards is considered a violation of this Ordinance and subject to enforcement provisions.
- D. All uses shall comply with the requirements of the McHenry County Stormwater Management Ordinance, McHenry County Public Health Ordinance, and McHenry County Access Control and Right-of-Way Management Ordinance.
- E. All uses shall comply with any applicable state and federal laws and regulations.
- F. Where state or federal permits or licenses are required, permits or licenses shall be obtained by the applicant prior to initiating the use. If a state or federal permit or license cannot be issued prior to zoning approval, the applicant must submit proof that he/she has applied for the permit or license.
- G. The following uses require state or federal permits or licenses: agriculture employee housing; airports, heliports, and restricted landing areas; day care center or home; earth extraction/mining; game preserve; hospital; landscape waste composting facility; recycling collection center; recycling processing facility; residential care facility; and salvage yard. Additional uses not identified above may require state or federal permits or licenses, which must be obtained by the applicant.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 14.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.56.030 PRINCIPAL USE STANDARDS.**

##### **A. Adult Use.**

1. *Purpose.* The purpose of these standards is to promote the health, safety, morals, and general welfare of the citizens of McHenry County, while establishing reasonable and uniform regulations to prevent effects from a deleterious location and concentration of adult uses within McHenry County, in accordance with the Counties Code (55 ILCS 5/5 12001 *et seq.*), as amended.

a. It is not the intent or effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

b. It is not the intent nor effect of this section to condone or legitimize the distribution of obscene material.

c. It is the intent of these regulations to provide safeguards to ensure that adult uses do not provide a venue for human trafficking, prostitution, illicit drug use, or other illegal activities.

2. *Applicable Districts and Operations.* Each adult use shall, prior to commencement or continuation of such business, obtain conditional use permit approval to operate an adult use in the I-1 or I-2 Districts. Each adult use shall also comply with all applicable regulations in the zoning district where the business is located.

3. *Additional Application Requirements.* An application for a conditional use permit for an adult use shall also include the following:

- a. The name and permanent address of the property owner(s) and adult use operator(s).
- b. The name and business address of the petitioner(s). If the petitioner(s) is a corporation, the name shall be exactly as set forth in its articles of incorporation and the petitioner(s) shall show the name and residence address of each of the officers, directors and each stockholder owning no less than seven and one-half percent (7.5%) of the stock of the corporation. If the petitioner(s) is a partnership, the application shall show the name and residence address of each of the members, including limited partners.
- c. A detailed description of the manner of providing proposed entertainment, including type of entertainment and the number of persons engaged in the entertainment.
- d. Hours of operation.
- e. A location, address, and floor plan showing where the specific entertainment uses will be conducted within the building.
- f. The name or names of the person or persons having management or supervision of the business and of any entertainment.
- g. A statement of the nature and character of the business, if any, to be carried on in conjunction with such entertainment.
- h. For a renewal of the conditional use permit, the applicant(s) in addition shall indicate any changes since the filing of the initial petition.
- i. Whether the petitioner(s) or any of the other individuals described has had a previous permit under this section or other similar ordinances from another village, city, or county denied, suspended, or revoked, including the name and location of the adult use for which the permit was denied, suspended, or revoked, as well as the date of the denial, suspension, or revocation, and whether the petitioner(s) or any other individuals listed pursuant to this section has been a partner in a partnership or an officer, director, or principal stockholder of a corporation that was permitted under this section whose permit has previously been denied, suspended, or revoked, including the name and location of the adult use for which the permit was denied, suspended, or revoked as well as the date of denial, suspension, or revocation.
- j. Whether the petitioner(s) or any other individual listed pursuant to this section holds any other permits and/or licenses for an adult use from another village, city, or county, and, if so, the names and locations or such other permitted businesses.
- k. If a person who wishes to operate an adult use is an individual, he/she shall sign the application for a permit as applicant. If a person who wishes to operate an adult use is other than an individual, each individual who has a seven and one-half percent (7.5%) or greater interest in the business shall sign the application for a permit as applicant. If a corporation is listed as owner of an adult use or as the entity which wishes to operate such a business, each individual having a seven and one-half percent (7.5%) or greater interest in the corporation shall sign the application for a permit as applicant.

4. *Operation Requirements.* It is unlawful for any person to operate, engage in, conduct or carry on any adult use within McHenry County unless the property owner(s) and business operator(s) of the adult use first obtains a conditional use permit in addition to the appropriate zoning. Along with the base zoning requirements, the following additional requirements shall be satisfied by an adult use and included in any approved conditional use permit:

- a. The adult use shall comply with the zoning, parking, development, and design standards applicable to the district in which the business is located.
- b. Maximum occupancy load, fire exits, aisles, and fire equipment shall be regulated, designed and provided in accordance with applicable building codes, in addition to any other regulations and/or standards, adopted by McHenry County.
- c. No adult use is permitted to operate in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities and/or specified anatomical areas from any public way or from any location outside the building or area of such establishment. This provision applies to any display, decoration, sign, show window, or other opening.
- d. Lighting and video surveillance is required to illuminate all off-street parking areas serving such use for the purpose of increasing the personal safety of adult use employees and adult use patrons and reducing the incidents of vandalism and theft. Signage shall be posted indicating that the property is under video surveillance. The lighting plan and video surveillance signage shall be included on the required site plans and shall be reviewed by the Staff Plat Review Committee.
- e. No loudspeakers or sound equipment are permitted for the amplification of sound to a level discernible by the public beyond the walls of the building in which such use is conducted or which violates any noise restrictions in effect in McHenry County.
- f. Parking lot and building entrances to an adult use shall be clearly and legibly posted with a notice indicating that minors are precluded from entering the property and building. The notice shall be constructed and posted to the satisfaction of the Zoning Enforcement Officer.
- g. Landscape shall conform to the standards of this Ordinance. However, if the adult use is the sole use on a lot, plantings are limited to thirty (30) inches in height, except trees with foliage no less than six (6) feet above the ground.



- h. The adult use shall not be located, in whole or in part, within any portable structure.
- i. The adult use is prohibited from conducting or sponsoring any special events, promotions, festivals, concerts, or similar activities that would increase the demand for parking spaces beyond the approved number of spaces for the business.
- j. It is unlawful to sell, serve, or permit the consumption of alcohol in a structure or on the property occupied by an adult use.
- k. Any adult use that allows adult use patrons to remain on the premises while viewing any live, filmed, or recorded entertainment, or while using or consuming the products or services supplied on the premises, shall conform to the following requirements:
  - (1) At least one (1) security guard is required to be on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is open. If the occupancy limit of the premises is greater than fifty (50) persons, an additional security guard is required to be on duty inside the premises. The security guard(s) is charged with preventing violations of law and enforcing compliance by patrons with the requirements of this Ordinance, and notifying the McHenry County Sheriff's Department and Zoning Enforcement Officer of any violations of law observed. Required security guards shall be provided by an Illinois licensed Security Contractor Agency licensed by the State of IL Department of Financial and Professional Regulations to provide such security services. Required security guard(s) shall be uniformed so as to be readily identifiable as a security guard by the public. No required security guard is permitted to act as a door person, ticket seller, ticket taker, or admittance person while acting as a security guard.
  - (2) No exterior door or window on the premises can be propped or kept open at any time while the business is open. All exterior windows shall be covered with opaque covering at all times. Such opaque covering shall be in compliance with building codes adopted by McHenry County.
  - (3) Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance/exit to the business.
- l. All indoor areas of the adult use within which patrons are permitted, except restrooms, shall be open to view at all times.
- m. No adult material is permitted to be displayed in such manner as to be visible from any location other than within the premises occupied by the adult use.
- n. No person under the age of eighteen (18) years, including, but not limited to adult use employees/entertainers, adult use patrons, and the children of adult use employees/entertainers and adult use patrons, is permitted on the property or in the building of an adult use at any time.
- o. The adult use shall provide and maintain separate restroom facilities for male adult use patrons and adult use employees, and female adult use patrons and adult use employees. Male adult use patrons and adult use employees are prohibited from using the restroom(s) for females, except to carry out duties of repair, maintenance, and cleaning of the restroom facilities and vice-versa. The restrooms shall be kept free from any adult material. Restrooms are prohibited from containing television monitors or other motion picture or video projection, recording, or reproduction equipment. These provisions of this paragraph are applicable to an adult use which deals exclusively with the sale or rental of adult material which is not used or consumed on the premises, such as an adult bookstore or adult video store, and which does not provide restroom facilities to its adult use patrons or the general public.
- p. Adult uses are prohibited from operating during the hours from 12:00 a.m. (midnight) to 4:30 p.m.
- q. The following additional requirements pertain to adult arcades that provide one (1) or more viewing areas:
  - (1) Upon filing a petition for a conditional use permit for an adult arcade, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station is limited to thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. A professionally prepared diagram in the nature of an engineer's or architect's blueprint is not required, but each diagram shall be oriented to the north or to some designated street or object and drawn to one-quarter-inch (¼") scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the adult arcade to an accuracy of plus or minus six (6) inches.
  - (2) No alteration in the configuration or location of a manager's station(s) may be made without the prior approval of the Department of Planning and Development.
  - (3) It is the duty of the owner(s) to ensure that at least one (1) employee is on duty and situated at each manager's station at all times that any patron is present inside the adult arcade.
  - (4) The interior of the adult arcade shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the adult arcade to which any adult use patron is permitted access for any purpose excluding restrooms. If the adult arcade has two (2) or more manager's stations designated, then the interior of the adult arcade shall be configured in such a manner that there is an unobstructed view of each area of the adult arcade to which any adult use patron is permitted access for any purpose, excluding restrooms, from at least one (1) of the manager's stations. The view required in this subsection shall be by direct line of sight from the manager's station.
  - (5) It is the duty of the owner(s) and all employees present in the adult arcade to ensure that the individual viewing area remains unobstructed by any doors, walls, persons, merchandise, display racks, or other materials at all times, and to ensure that no patron is permitted access to any area of the adult arcade which has been designated as an area in which patrons will not be permitted.
  - (6) No individual viewing area may be occupied by more than one (1) person at any one time. Individual viewing areas of the adult arcade shall be operated and maintained without any hole or other opening or means of direct communication or visual or physical access between the interior space of two (2) or more individual viewing areas.
  - (7) No individual viewing area can contain booths, stalls, or partitioned portions used for the viewing of adult material or other forms of entertainment, having doors, curtains, or portal partitions, unless such individual viewing areas containing booths, stalls, or partitioned portions have at least one (1) side open to the manager's station and visible to the manager's station. Any authorized booth, stall or partitioned portion of an individual viewing area shall be constructed to allow twelve (12) inches of open space between the bottom of the stall or partition and the floor. Such open space shall remain unobstructed at all times.
  - (8) The adult arcade shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, but such lighting shall not be of an intensity as to prevent the viewing of the adult material.
  - (9) It is the duty of the owner(s) and all employees present in the adult arcade to ensure that the illumination described above is maintained at all times that any adult use patron is present in the adult arcade.
- r. The following additional requirements pertain to adult uses providing live entertainment depicting specified anatomical areas and/or involving specified sexual activities:
  - (1) All live entertainment for patrons of an adult use shall be performed on a stage at least eighteen (18) inches above the level of the floor and separated by a distance of at least six (6) feet from the nearest area occupied by patrons. No patron is permitted within six (6) feet of the stage while the stage is occupied by an adult use entertainer.
  - (2) The adult use shall provide separate dressing room facilities for adult use entertainers exclusively dedicated to the adult use entertainers' use. Such facilities shall be clearly marked with signs indicating that they are restricted to use by adult use entertainers only.
  - (3) The adult use shall provide an entrance/exit to the adult use for adult use entertainers separate from the entrance/exit used by adult use patrons.
  - (4) The adult use shall provide access for adult use entertainers between the stage and the dressing rooms completely separated from the adult use patrons. If such a separate access is not physically feasible, the adult use shall provide a minimum three (3) foot wide walk aisle for adult use entertainers between the dressing room area and the stage, with a railing, fence, or other barrier separating the adult use patrons and the adult use entertainers capable of, and which actually results in, preventing any physical contact between adult use patrons and adult use entertainers.
  - (5) Any adult use entertainer, either before, during, or after performances, are prohibited from physical contact with any adult use patron and all adult use patrons are prohibited from physical contact with any adult use entertainer either before, during, or after performances by such adult use entertainer on the site of the adult use.
  - (6) Fixed rail(s) at least thirty (30) inches in height shall be maintained, establishing the separations between adult use entertainers and adult use patrons required by this subsection A.4.r.4.(6).
  - (7) The adult use shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which adult use patrons are permitted access with an illumination of no less than twenty (20) footcandles as measured at the floor level.
  - (8) No tipping is permitted between any adult use employee/entertainer and adult use patrons.
  - (9) A sign containing a phone number to call to report human trafficking shall be posted in a location visible to adult use employee/entertainers and adult use patrons.
- s. The adult use shall not result in an increase in crime by more than ten percent (10%) in the neighborhood in which it is located as evidenced by calls to the McHenry County Sheriff's Department in any three-month (3-month) period.
- t. The establishment, maintenance or operation of the adult use shall not adversely affect other commercial or industrial enterprises in the surrounding area.

5. *Location Restrictions.* No proposed or existing adult use is permitted within the minimum distance indicated below from the following uses. The location distances shall be measured by drawing a straight line between the closest property line of the proposed or existing adult use to the nearest property line of such existing specified uses above, including uses within municipalities and adjacent counties. Measurement shall be made in a straight line, without regard to intervening structures or objects.

- a. Another adult use: Two thousand (2,000) feet.
- b. Place of worship: One thousand five hundred (1,500) feet.
- c. Educational facility - preschool through high school or educational facility - college/university/technical: One thousand five hundred (1,500) feet.
- d. A residence or a residential zoning district: One thousand five hundred (1,500) feet.
- e. A landmark designated by McHenry County: One thousand five hundred (1,500) feet.
- f. Residential care facility: One thousand five hundred (1,500) feet.
- g. Park: One thousand five hundred (1,500) feet.
- h. Day care center or day care home: One thousand five hundred (1,500) feet.
- i. Cemetery: One thousand five hundred (1,500) feet.

6. *Signs.* Signs for an adult use are regulated separately from signs for the zoning district. Adult use signs are limited as follows:

- a. An adult use is permitted one (1) primary sign and one (1) secondary sign, as follows:
  - b. Primary and secondary signs are prohibited from containing any photographs, silhouettes, drawings, or pictorial representations of any manner, per the Criminal Code of 2012 (720 ILCS 5/11-20).
  - c. Primary signs are limited to two (2) display surfaces. Each such display surface shall meet the following:
    - (1) Shall not contain any flashing lights, moving parts, or be constructed to simulate movement.
    - (2) Constructed as a flat plane and rectangular in shape.
    - (3) Limited to seventy-five (75) square feet in area.
    - (4) Limited to ten (10) feet in height and ten (10) feet in length.
    - (5) Constructed as a ground or wall sign and subject to the zoning district regulations for such signs that are not modified by the above restrictions.
  - d. Secondary signs are limited to one (1) display surface. The display surface shall meet the following:
    - (1) Constructed as a flat plane and rectangular in shape.
    - (2) Limited to twenty (20) square feet in area.
    - (3) Shall be affixed or attached to any wall or door of the establishment.
    - (4) Constructed as a wall sign and subject to the zoning district regulations for wall signs that are not modified by the above restrictions.

7. *Additional Approval Standards.* No conditional use permit for an adult use will be approved unless the following additional standards are met:

- a. The adult use does not have an adverse effect on traffic flow or parking within the surrounding area.
- b. The adult use does not allow the generation of noise in excess of levels so great as to constitute an unreasonable interference with the rights or well-being of persons outside of the confines of such establishment.
- c. The adult use conforms to the applicable regulations of the district in which it is to be located.

8. *Suspension and Revocation of a Conditional Use Permit for an Adult Use.*

- a. In addition to the revocation provisions of a conditional use permit, the County Board may suspend or revoke any adult use conditional use permit if it is found to violate any term of the conditional use permit or that any of the following conditions exist:
  - (1) The operation conducted by the adult use permittee does not comply with all applicable laws, including, but not limited to, the County's building, health, and zoning ordinances, the use standards, and the conditions of approval of the conditional use permit.
  - (2) The approved use has been substantially enlarged without the approval of the Zoning Enforcement Officer.
  - (3) The approved use has been partially or wholly converted to another type of adult use without the approval of the Zoning Enforcement Officer.
  - (4) The conditional use permit has not been established or utilized within six (6) months of its issuance.
- b. The adult use permittee shall cease operation of the adult use immediately upon notification that the County Board is reviewing the conditional use permit for possible suspension or revocation of the conditional use permit and the use shall not be resumed until the County Board makes a final decision regarding the possible suspension or revocation provided that such decision shall be made within 14 days.

9. *Enforcement.* The McHenry County Sheriff Office may assist the Zoning Enforcement Officer with enforcement of this subsection A. Adult Use.

#### B. *Agriculture.*

1. Crop cultivation is allowed in all zoning districts.
2. Farm animal husbandry is allowed in the agricultural zoning districts without respect to property size or agricultural income. In all other districts, farm animal husbandry is allowed on lots or parcels of five (5) acres or more where agricultural purposes constitute the principal activity on the land, or, on lots or parcels of less than five (5) acres subject to proof of agricultural income in any calendar year, as defined by the Counties Code (55 ILCS 5/5-12001 *et seq.*). This restriction does not apply to Apiaries, Chicken Coops and Chicken Runs, and Equestrian Uses and Structures provided they conform to § 16.56.050 (Accessory Structure and Use Standards) and § 16.56.030V. (Horse Stable).
3. Agricultural exempt structures are allowed in the agricultural and estate zoning districts without respect to property size or agricultural income. In all other districts agricultural exempt structures are allowed on lots or parcels of five (5) acres or more where agricultural purposes constitute the principal activity on the land, or, on lots or parcels of less than five (5) acres subject to proof of agricultural income in any calendar year, as defined by the Counties Code (55 ILCS 5/5-12001 *et seq.*). This restriction does not apply to Apiaries, Chicken Coops and Chicken Runs, and Equestrian Uses and Structures provided they conform to § 16.56.050 (Accessory Structure and Use Standards) and § 16.56.050V. (Horse Stable). The construction and use of agricultural exempt structures is regulated as follows:
  - a. On parcels or lots without an existing residential or other principal use, the first agricultural exempt structure constructed shall meet the principal building setback requirements for the zoning district. All other agricultural exempt structures shall meet the accessory building setback requirements for the zoning district.
  - b. The primary occupancy of an agricultural exempt structure shall be agricultural uses.
  - c. Less than fifty-percent (50%) of the gross floor area of an agricultural exempt structure may be utilized for:
    - (1) The storage of personal items, vehicles, recreational vehicles, snowmobiles, off-road motorcycles, all-terrain vehicles, and trailers owned by the property owner or tenant.
    - (2) The conduct of a home occupation, subject to the standards contained in §16.56.050I. (Home Occupations).
  - d. Agricultural exempt structures may be utilized for temporary agritourism events, temporary entertainment events, and temporary farmers market events, subject to the standards contained in § 16.56.040 (Temporary Use Standards) and approval by the Building Enforcement Officer and the applicable fire district.
  - e. Agricultural exempt structures may be utilized for limited agritourism, subject to the standards contained in subsection D. below (Limited Agritourism) and approval by

the Building Enforcement Officer and the applicable fire district.

f. Agricultural exempt structures shall not be occupied for any other use unless otherwise specifically permitted by this ordinance.

C. *Agriculture Employee Housing.*

1. The following information shall be included in the application for conditional use permit:

- a. Type of building proposed.
- b. Type of water supply and sewage disposal systems proposed.
- c. Number of inhabitants to be housed in the facility.
- d. Type of business conducted on the property.
- e. Time period of occupancy.

2. All facilities shall obtain and maintain any state or federal licenses required for their operation. Failure to maintain such license will result in a revocation of the conditional use permit.

3. All facilities shall be compatible with the type and outward appearance of the residences in the area in which they are located.

4. All structures shall comply with the building code and shall be maintained in good repair. All agriculture employee housing shall maintain sanitary facilities in accordance with the McHenry County Public Health Ordinance.

5. Mobile homes may be placed on a property to provide housing for (an) agricultural worker(s) subject to approval of an agricultural trailer permit, based on the following criteria:

a. The property owner shall affirm, using forms provided by the Department of Planning and Development, that occupancy of the mobile home will be limited to persons and the families of persons engaged in agricultural activities on the subject property.

b. If the property is less than five (5) acres in size, the property owner shall provide proof of agricultural income in any calendar year, consistent with the Counties Code (55 ILCS 5/5-12001 *et seq.*).

c. The permit shall expire after two (2) years or upon a change in property ownership. Within thirty (30) days of the expiration of the permit, the property owner shall remove the mobile home from the property or receive a new agricultural trailer permit.

D. *Agritourism, Limited.*

1. The minimum lot size for a Limited Agritourism use is five (5.0) acres, except in the commercial zoning districts.

2. Limited Agritourism uses require site plan review.

3. Limited Agritourism must be incidental to and directly supportive of a main agricultural operation of the property. The use must be located on the same lot or parcel as the agricultural operation or located on lots or parcels owned by the same person(s) as the agricultural operation.

4. All areas open to the public, including sales areas, seating areas, and activities areas, must be located a minimum of thirty (30) feet from any lot line. This requirement does not apply to allowed agricultural activities and structures including, but not limited to, orchards, pumpkin patches, other U-pick operations, and farmstands.

5. The entire ground floor of any barn constructed before 1940 may be used for any agritourism purpose, as long as the use of the structure is approved by the applicable fire district.

6. All structures open to the public, except Farmstands that meet the standards of Section 14.3.R (Farmstand) and barns constructed before 1940 used in accordance with subsection D.5. above, must meet applicable building code requirements

7. Toilet and sanitary facilities must be provided in accordance with the McHenry County Public Health Ordinance and Illinois State Plumbing Code.

8. Food and beverage services, with the exception of the sale of bottled water, are limited to Agritourism Food Concession Stands and must meet all applicable building code requirements and the McHenry County Public Health Ordinance.

9. An off-street parking area is required. Such area does not need to be paved.

10. Agricultural classes and tours shall be limited to a maximum of thirty (30) participants per class or tour group, excluding tours conducted as public or private kindergarten through 12-grade school activities.

11. Agricultural classes and tours may be conducted in agricultural exempt structures.

E. *Agritourism, Intensive.*

1. The minimum lot size is twenty (20.0) acres, except in the commercial zoning districts.

2. Intensive Agritourism uses require site plan review and, except in the B-3 District, conditional use permit approval.

3. Agritourism must be incidental to and directly supportive of a main agricultural operation of the property, except in the commercial zoning districts. The agritourism use must be located on the same lot or parcel as the agricultural operation or located on lots or parcels owned by the same person(s) as the agricultural operation.

4. Agritourism uses shall not negatively impact agricultural operations of neighboring properties.

5. All areas open to the public, including sales areas, seating areas, and activities and entertainment areas must be located a minimum of thirty (30) feet from any lot line. This requirement excludes allowed agricultural activities and structures including, but not limited to, orchards, pumpkin patches, other U-pick operations, and farmstands.

6. All structures open to the public, except Farmstands that meet the standards of subsection R. below (Farmstand), must meet applicable building code requirements. Farmstands that do not meet the standards of subsection R. below (Farmstand) are permitted, provided they meet applicable building code requirements.

7. Toilet and sanitary facilities must be provided in accordance with the McHenry County Public Health Ordinance and Illinois State Plumbing Code.

8. Food and beverage services must be provided in accordance with the McHenry County Public Health Ordinance.

9. An off-street parking area is required. Such area does not need to be paved.

F. *Airport/Heliport/Helistop - Public Use or Private Use.*

1. The airport, heliport, or helistop shall meet all standards of the United States Department of Transportation, Federal Aviation Administration, and the Illinois Department of Transportation, Division of Aeronautics for the class of airport proposed, and designed and constructed in accordance with all state and federal regulations.

2. All structures shall meet the setback requirements of the district in which they are located. This requirement does not apply to equipment required to be installed at the end of a runway, such as ILS localizer antennas or VASI light arrays.

G. *Amusement Facility, Outdoor.*

1. All outdoor amusement facilities shall be designed in compliance with any applicable national safety standards for the activity, such as, but not limited to, the American Motorcycle Association standard for motorized vehicle race tracks.

2. Site plan review is required. Site plan review shall evaluate the location, arrangement, size, design, and general site compatibility of structures, screening and buffering, and exterior lighting, to mitigate any potential negative impact upon adjacent property.

H. *Auto Repair, Major and Minor.*

1. All vehicles must be stored indoors or on a paved surface and no required off-street parking may be used for vehicle storage.

2. All driveways shall be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
3. All repair operations shall be fully enclosed. Only vehicles being serviced at the establishment may be stored outdoors. No vehicles may be stored and no repair work may be conducted in the public right-of-way. Wrecked or junked vehicles may not be stored on-site. All equipment and parts shall be stored indoors.
4. Where an auto repair facility abuts a residential zoning district, the facility shall install an opaque masonry wall of stone, stucco, or brick, a solid fence, or dense evergreen hedge, at least six (6) feet but no more than ten (10) feet in height along the length of all interior side and rear lot lines that abut the residential zoning district.
5. Minor auto repair shops may include a gas station, if the use is allowed in the zoning district.
6. The sale of vehicles is permitted, if an auto dealership use is allowed in the zoning district.

I. *Campground.*

1. *General Requirements.*

- a. The minimum area for a campground is ten (10) contiguous acres.
- b. The campground shall meet all state regulations including the Illinois Campground Licensing and Recreation Area Act (210 ILCS 95/) and the Recreational Area Code (77 Ill. Adm. Code 800).
- c. Campgrounds shall comply with all applicable County regulations, including those governing the installation, construction and/or operation of swimming pools, water supply, sewage disposal, food storage and services, plumbing, structures, electrical wiring, and fire prevention.
- d. Management headquarters, recreational facilities, coin operated laundry facilities, cabins for counselors, overnight accommodations and similar living space, and other uses and structures customarily associated with the operation of a campground are permitted. All such structures must meet the requirements of the building code.
- e. Storage of all campground materials or equipment shall be within enclosed structures.
- f. Year-round residency is prohibited at any campground. Camping units are prohibited from use as a principal residence.

2. *Campsites.*

- a. Each campsite shall be setback a minimum distance of one hundred (100) feet from the perimeter property line of the campground. The perimeter setback must be landscaped to screen the campground and preservation of existing vegetation is encouraged.
- b. Permanent or semi-permanent structures, such as platforms, ramps, lean-to's, garages, sheds, and room additions, are prohibited, unless required to provide handicap access in accordance with American with Disability Act Requirements.
3. *Interior Roadways.* Within campgrounds intended to accommodate automobile or recreational vehicles, all interior roads shall have a minimum width of twenty-five (25) feet for two (2) lanes and twelve (12) feet for one (1) lane. Road curves shall have a minimum radius of fifty (50) feet and turnarounds a minimum radius of sixty (60) feet. Campsites are prohibited from having direct access to a public street.

J. *Cemetery or Pet Cemetery.*

1. Cemeteries shall comply with all state regulations.
2. The site proposed for a cemetery shall not interfere with the future development of a system of collector and larger streets, and have direct access to a public thoroughfare.
3. All burial buildings shall be setback a minimum of eighty (80) feet from any street bounding a cemetery or memorial park, and fifty-five (55) feet from any side or rear lot line.
4. All graves or burial lots shall be setback a minimum of thirty (30) feet from any street lot line and ten (10) feet from any interior side or rear lot line.
5. Pet cemeteries are allowed as a conditional use but shall be specifically requested in the conditional use permit application. Pet cemeteries shall comply with all state regulations.

K. *Day Camp.*

1. A day camp shall meet all state regulations.
2. All day camps shall comply with all applicable County regulations, including those governing the installation, construction, and/or operation of swimming pools, water supply, sewage disposal, food storage and service, plumbing, structures, electrical wiring, and fire prevention.
3. Management headquarters, recreational facilities, cabins, and other uses and structures customarily associated with the operation of a day camp are permitted. All such structures must meet the requirements of the County building codes.
4. Storage of all day camp materials or equipment shall be within enclosed structures.
5. In addition to the yard requirements of the zoning district, interior side yards and a rear yard of at least thirty (30) feet each are required unless the zoning district requires a larger yard. Outside recreation areas, including playgrounds or recreation fields, are prohibited in any required yard.

L. *Day Care Center.*

1. Day care centers shall meet all state regulations including, but not limited to, maximum occupancy and minimum outdoor area requirements, licensing, and health, safety, and building code requirements.
2. One (1) drop-off space is required for every eight (8) day-care recipients, based on maximum enrollment. The drop-off space shall be located immediately adjacent to the facility and designed so that pedestrians do not have to cross vehicle traffic lanes.

M. *Day Care Home.*

1. The day care home operator must live in the dwelling to be used as a day care home.
2. Day care homes shall meet all state regulations including, but not limited to, caring for a maximum of twelve (12) children unless licensed for a lesser number, and minimum outdoor area requirements, licensing, and health, safety, and building code requirements.
3. No portion of a day care home may be located within a three-hundred-foot (300') distance from any potentially hazardous land use or activity which could pose a threat to the safety and welfare of the children and other occupants at the facility. Hazardous land uses or activities include, but are not limited to, gas stations, heavy industrial, storage of flammable or high-pressure underground pipelines, truck or rail freight terminals, and similar uses.
4. Any additions or improvement to an existing residential structure or property for purposes of a day care home shall preserve its residential character. The scale, bulk, height, and roof pitch of any addition and the building materials used shall be compatible with the existing structure. Any improvements to the structure shall be in compliance with all other applicable County regulations relating to building and/or zoning permits.
5. If there are unsafe areas, such as open drainage ditches, wells, holes, heavy street traffic, or similar, in or near to an outdoor play area, fencing is required to restrict children from these areas. Natural or physical barriers, such as hedge rows, walls, or dense vegetation, may be used in place of fencing so long as such barriers functionally restrict children from unsafe areas.
6. All signs shall comply with standards governing home occupations of Chapter 16.72 (Signs).
7. All day care homes shall be marked with clear house numbers.
8. Play equipment, in designated on-site play areas, shall be located at least ten (10) feet from any abutting property line and the area must be fenced.

N. *Drive-In Theater.*

1. The site shall be a minimum of five (5) acres.

2. All structures, viewing areas and seating areas shall be set back at least one hundred (100) feet from any lot line.
3. All parking areas and access ways shall be adequately lighted and the lighting shielded to prevent glare or reflection onto neighboring properties or public streets.
4. Off-street stacking requirements for vehicles of patrons awaiting admission to or departing from any drive-in theater shall equal to ten percent (10%) of the vehicle capacity of the theater.
5. Playgrounds and refreshment stands and booths are permitted as incidental to the drive-in theater use and limited to use of the patrons.
6. The viewing surface of the screen shall not be visible from any existing or proposed street within one-quarter (¼) mile of the property lines of the site.

O. *Dwelling Unit, Ancillary.*

1. Ancillary dwelling units that exist as of the date of the adoption of this Ordinance are allowed in accordance with Chapter 16.80 (Nonconformities) or the conditional use permit under which they were established, if applicable. Nonconforming ancillary dwelling units can be made conforming by obtaining variations of any noncompliant standard listed below.
2. Ancillary dwelling units are subject to Table 16.32-1: Zoning District Uses.
3. Ancillary dwelling units may be attached to the principal dwelling unit or detached as a standalone structure. Detached ancillary dwelling units must also follow additional requirements outlined in § 16.56.030.O.4.
  - a. Ancillary dwelling units shall meet all building code requirements and McHenry County Department of Health requirements regarding well and septic.
  - b. Ancillary dwelling units shall be limited to no more than 2 bedrooms.
  - c. Ancillary dwelling units shall not exceed the size and scope of the principal residence.
  - d. Lots or parcels containing an ancillary dwelling unit shall be owner occupied. The owner may reside in either the principal residence or the ancillary dwelling unit. No one else shall occupy the owner's unit when the owner is not residing on the property. The homestead exemption per 35 ILCS 200/15-175 could be used as evidence for this requirement.
  - e. Only one ancillary dwelling unit is allowed per lot or parcel.
  - f. One (1) parking space shall be provided for an ancillary dwelling unit in addition to that required for the principal dwelling.
4. When an ancillary dwelling unit is detached from the principal residence on the property the following requirements apply:
  - a. Detached ancillary dwelling units shall be no more than thirty-five (35) feet in height and measured in accordance with § 16.60.010.F.1.a.
  - b. Detached ancillary dwelling units are prohibited from being located within the effective street yard.
  - c. Detached ancillary dwelling units shall meet all of the same side and rear yard setback requirements as a principal structure per Table 16.36-1.
  - d. The maximum square footage of the footprint of a detached ancillary dwelling unit shall not exceed 900 square-feet.
  - e. Mobile home trailers and recreational vehicles are prohibited from being used as an ancillary dwelling unit.

P. *Earth Extraction and Mining.*

1. *Earth Extraction Activities Exempt from Conditional Use Permit.* An owner is exempt from the requirements of conditional use permit approval pursuant to this section provided each of the following conditions are satisfied:
  - a. Earth extraction operations are conducted upon a recorded lot of record no more than two (2) acres in size.
  - b. Less than ten (10) feet of overburden is removed for the single purpose of improving the agricultural use of that parcel or another parcel in his/her ownership or of his/her spouse or children. Earth extraction and/or mining operation(s) do not constitute an agricultural use.
  - c. The owner files an affidavit with the Zoning Enforcement Officer that the above conditions have been met. Such earth extraction or mining operation(s) may be conducted without a hearing before the Zoning Board of Appeals and without approval of the County Board. The Zoning Enforcement Officer will provide the necessary form of application and affidavit and issue a certificate of exemption if warranted to the owner. However, this certificate does not eliminate the need for any other required permits.
2. *Compliance with State and Federal Regulations.*
  - a. It is unlawful for any owner/operator to engage in earth extraction or mining in an area where the overburden exceeds ten (10) feet in depth or where the operation will affect more than ten (10) acres during the permit year without first obtaining a permit from the Illinois Department of Mines and Minerals to do so, pursuant to the Surface-Mined Land Conservation and Reclamation Act (225 ILCS 715/1 *et seq.*), as amended.
  - b. All owner/operators shall comply with the regulations of the United States Environmental Protection Agency and all State of Illinois and federal regulatory agencies for occupational health and safety, and shall obtain any necessary permits prior to conditional use permit approval. Before the onset of any operations, the Zoning Enforcement Officer shall be provided with copies of all necessary permits.
3. *Earth Extraction Report and Plan.* The applicant must submit the following information no less than thirty (30) calendar days prior to the opening of the public hearing for the conditional use permit:
  - a. Ownership of land.
  - b. Minerals to be extracted or mined.
  - c. Character and composition of vegetation and wildlife on land to be affected.
  - d. Current assessed valuation of lands to be affected.
  - e. Assessed valuation shown by two (2) quadrennial assessments next preceding the currently effective assessment.
  - f. The nature, depth, and proposed disposition of the overburden.
  - g. The estimated depth to which the mineral or aggregate resource will be extracted or mined.
  - h. The technique to be used in the extracting and/or mining operation.
  - i. Estimated type and volume of excavation.
  - j. The equipment proposed to be used.
  - k. Practices and methods proposed to be used to minimize noise, dust, air contaminants, and vibration and to prevent pollution of surface or ground water.
  - l. If applicable, the recycling of water used for washing and grading.
  - m. If applicable, the proposed usage or drainage of excess water.
  - n. The simultaneous reclamation plan including methods of accomplishment, phasing, and timing.
  - o. Current and past uses of the land.
  - p. Location of existing roads, and anticipated access and haulage roads planned to be used or constructed in conducting earth extraction and/or mining operation(s).
  - q. Location and names of all streams, creeks, wetlands and bodies of water within lands to be affected.
  - r. Drainage on and away from affected land, including directional flow of water, natural and artificial drainage ways and waterways, and streams or tributaries receiving the discharge.

- s. A topographic survey with two-foot (2') contours, at the same scale as the aerial photo showing the existing conditions on the subject site.
- t. A traffic study showing the impacts of increased truck traffic from the location of the earth extraction or mining site to the nearest County or State highway that will be used for transport.
- u. A current Illinois Department of Natural Resources Endangered Species Consultation (EcoCAT) Report.

#### 4. Expiration and Renewal of Conditional Use Permit.

a. All earth extraction or mining conditional use permits expire ten (10) years from the date of approval, unless a lesser time is approved. At the Zoning Board of Appeals public hearing, a time limit will be established in which the operator will complete earth extraction and/or mining operation(s) on the parcel. If operation(s) are not completed during the imposed time, the operator is required to request a renewal of the conditional use permit or cease operation.

b. The renewal of a conditional use permit under this section is valid for a maximum of ten (10) years.

c. A request to renew a conditional use permit that involves additional acreage or equipment above that allowed in the original conditional use permit is treated as a new conditional use permit.

d. The following describes the process to renew a conditional use permit:

(1) If an owner is not able to finish earth extraction and/or mining operation(s) on the acreage described in the conditional use permit in the time specified, the owner shall apply to the Zoning Board of Appeals for a renewal of the permit.

(2) The Zoning Board of Appeals will hold a public hearing. All maps required by this ordinance for the initial hearing shall be revised, updated, and resubmitted along with a statement of the current status of the reclamation. A new map describing conditions present on the site shall be furnished as described in "Existing Conditions" section of the Standards.

(3) The applicant shall furnish the Department of Planning and Development with a copy of the required maps, plans, and other related exhibits for review of the revised or extended reclamation plan no less than thirty (30) days before the Zoning Board of Appeals hearing.

(4) The Department of Planning and Development will prepare a report on the revised or extended reclamation plan and enter it into evidence at the Zoning Board of Appeals hearing.

(5) Any application for a renewal of a conditional use permit shall be filed with the Zoning Board of Appeals a minimum of one hundred twenty (120) days before the expiration date of the original conditional use permit or any renewal. Failure to file a request for renewal within the required time results in a required cessation of operations and, if applicable, the sale of product upon the expiration of the conditional use permit.

#### 5. Required Bonds.

a. An owner is required to obtain the proper permits and submit a bond or other acceptable form of surety. If a bond is required by the State of Illinois, the owner is only required to provide the Department of Planning and Development with a photocopy. A bond of no less than two thousand five hundred dollars (\$2,500.00) for each acre affected is required. The actual dollar amount will be established during the hearing process with the Zoning Board of Appeals, based upon one hundred fifty percent (150%) of the engineer's estimate of the cost of reclamation per acre average at the time earth extraction and/or mining operation(s) are to be performed. This estimate shall take into consideration inflation of costs in future years. The actual operation will be monitored by the Zoning Enforcement Officer, who will prepare a written report on the progress before partial or full release of the surety.

b. The surety will be held by the Department of Planning and Development. The bond will remain in effect until the affected lands have been reclaimed in accordance with the reclamation plan and the work is approved by the Department of Planning and Development and the Zoning Enforcement Officer at the annual review of the operation.

c. Earth extraction and/or mining operation(s) are not allowed unless a bond has been posted with the Department of Planning and Development. The form and type of surety shall be approved by the Office of the State's Attorney of McHenry County. The surety will be for assurance of completion of reclamation and the initial surety amount set on an anticipated three (3) years working basis with reasonable allowance for inflation of costs. Before the end of each one-year (1-year) period, the Zoning Enforcement Officer's evaluation and the approval of the past years work will be required for release of or reduction of the bond amount and at that time, re-bonding established for the next one-year (1-year) period or fraction thereof.

#### 6. Reclamation Plan.

a. *Reclamation Regulations.* The applicant must submit a reclamation plan map and statement of sequential operation and reclamation as a condition of approval. The reclamation plan shall be submitted no less than thirty (30) calendar days prior to the opening of the public hearing. The Department of Planning and Development shall prepare a report on the reclamation plan and enter it into evidence at the public hearing. The reclamation plan map shall produce a finished condition that provides for the return of the affected land to a useful purpose.

b. *Changes to the Reclamation Plan.* In the event that a change in the reclamation plan is necessary due to the unanticipated characteristics of the area concerned, the Department of Planning and Development shall be provided with appropriate documentation, and will study the proposed change and give the report to the Zoning Enforcement Officer and the Planning and Development Committee for their review. Changes may be made in the reclamation plan upon the request of the owner and require approval from the Zoning Enforcement Officer and the Planning and Development Committee. The change(s) shall preserve, as substantially as possible, the original reclamation plan, but may provide for previously unknown variables.

c. *Finished Conditions.* The finished conditions of all land affected by earth extraction and/or mining operation(s) shall:

(1) Be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes of no more than a fifteen percent (15%) grade. In the case of those lands to be reclaimed in accordance with the filed plan for forest plantations, recreation or wildlife, the final cut spoil, the outside slope of the box cut spoil, the outside slopes of all overburden deposition areas, and the side slopes of haulage road inclines are limited to a maximum thirty percent (30%) grade, but such slopes need not be reduced to less than the original grade of the overburden of the area prior to earth extraction and/or mining operation(s).

(2) Be designed to control conditions that could cause erosion on site or on surrounding properties.

(3) Be designed so that any surface drainage from the property leaves the property at the original, natural drainage points. If this is not possible, the drainage plans shall be reviewed by the Department of Planning and Development as part of the overall submission. Drainage volume shall not be increased over what it would have been if the site remained in its former use. The finished condition shall meet McHenry County Stormwater Management Ordinance standards.

(4) Be covered with arable topsoil to a minimum depth of six (6) inches and have a minimum of ten percent (10%) organic material. However, no greater depth of topsoil or percentage of organic material is required than that originally existing on the property prior to commencement of operations.

(5) After replacement of the topsoil, be successfully planted with native vegetation (trees, shrubs, legumes, grasses, or groundcover) or agricultural crops in accordance with the reclamation plan in order to avoid erosion in the numbers and sizes of plantings described in the plan.

(6) Whenever earth extraction and/or mining on any property is complete, all processing plants, structures other than those shown to remain on the reclamation plan, fences, and equipment shall be entirely removed from the property within one (1) year from the expiration date of the conditional use permit.

(7) If applicable, prior to the termination of the conditional use permit, the owner shall file with the McHenry County Recorder, a permanent easement, approved by the Zoning Enforcement Officer after review by the McHenry County's State's Attorney's Office, that provides access to the real estate for the purpose of monitoring and sampling of the then existing wells.

d. *Reclamation Plan Requirements.*

(1) *General.* A reclamation plan shall consist of a combination of graphic representation and written or printed text, the proportions of which may vary, but together they shall be sufficient to result in comprehensive and understandable documents showing the intent, methods, and processes of reclamation of the land as well as the extent of the site, the initial conditions, intermediate stages, and ultimate arrangement of land forms. The reclamation plan shall describe these conditions and procedures completely and clearly so that the plans may become regulatory documents to be used or referred to in the implementation of its intent.

(2) *Plan Elements.* The following four (4) elements are required for the reclamation plan, and for each element certain standards are cited. Due to natural differences at each earth extraction site, each element may vary in the preparation of plans for different sites, however, each element must be addressed as appropriate for each site.

(a) *Common Mapping Standards.* Each plan element shall depict the following information:

- i. *Site Mapping:* One inch to one hundred feet (1"=100') preferable, or one inch to two hundred feet (1"=200') alternative acceptable.

- ii. *Contour Interval*: Two (2) feet for slopes thirty percent (30%) or less; ten (10) feet for greater slopes when map scale is one inch to one hundred feet (1"=100) feet. All contours shall be in terms of elevations above mean sea level (USGS MSL or MGVD).
- iii. *Contour Interval*: Two (2) feet for slopes twenty percent (20%) or less; ten (10) feet for greater slopes when map scale is one inch to two hundred feet (1"=200') feet. All contours shall be in terms of elevations above mean sea level (USGS MSL or MGVD).
- iv. *Roads or Streets*: Name, right-of-way width, and road within right-of-way, and centerline elevations at fifty-foot (50') intervals for three hundred (300) feet beyond the site.
- v. *Easements*: Widths and identification of utility or other purpose.

(b) *Element 1: Existing Conditions*. The purpose of Element 1 is to provide sufficient information to describe the existing conditions at the site including topographic, hydrologic, and other data relating to the property to be mined and the area immediately adjacent to the perimeter of that property, and to establish a beginning point for measurement of mining and reclamation progress. Element 1 shall include the following information:

- i. Common mapping standards as listed above.
- ii. *Natural Land Features*: Locations of watercourses and drainageways, floods of record, sinks, basins, wooded areas, and wetlands as identified on National Wetlands Inventory quadrangle maps.
- iii. *Man-Made Features*: All buildings and other structures, dams, dikes, and impoundments of water.
- iv. *Adjacent Land Features*: All of the standards above shall apply to delineation of the area within three hundred (300) feet of the perimeter of the mined area. In addition, all platted subdivision lots and metes and bounds parcels must be shown.
- v. *Groundwater*: Locations of at least five (5) borings which show depths to groundwater, date of observed water levels twenty-four (24) hours after drilling and surface elevations of borings shall be noted.
- vi. *Cross-Sections (as required) to Illustrate Conditions*: Vertical scale equal to, or in exaggeration of, horizontal scale.

(c) *Element 2: Mining Operations, Procedures, and Phases*. The purpose of Element 2 is to provide sufficient information in the form of a map, diagrams, or other graphics accompanied by descriptive text to show the extent of the area to be mined, define the limits of the area where processing will take place, where process water will be ponded, and how processed material will be transported, and to illustrate the sequences of the reclamation process and describe the time relationship of the phases. The document produced should be sufficiently specific to aid in administration of monitoring the progress of mining and reclamation. Element 2 shall include the following information:

- i. Common mapping standards as listed above.
- ii. Processing areas shall be identified and boundaries shown to scale.
- iii. Access road to processing and mining areas shown to scale.
- iv. Sequences of operation showing approximate areas involved shall be shown to scale and serially numbered with a description of relation of mining to reclamation follow-up activity and timing.
- v. Locations of screening berms shall be shown to scale and notes shall be provided indicating when they will be used as reclamation material. In the same manner, overburden storage areas shall be identified and noted.
- vi. Fences and gates shall be shown on the site map and their type or construction shall be described. Any fencing related specifically to certain phases of mining or reclamation shall be identified and noted.
- vii. Proposed locations of principal service or processing buildings or enclosures shall be shown as well as locations of settling basins and process water ponds.
- viii. Site drainage features shall also be shown and flow directions indicated.
- ix. A Spill Prevention Containment and Control Plan for asphalt batching, concrete mixing, petroleum products, or other hazardous chemical storage.

(d) *Element 3: Reclamation Plan (Final Land Form)*. The purpose of Element 3 is to give a reasonably accurate description of the final form of the reclaimed land after all mining has been completed and processing equipment, settling basins, process water sources etc., have been removed or eliminated. The solution of the problem of end-match of new contours to old contours of peripheral land should be evident as should all problems of compatibility of physical characteristics of new land forms to surrounding land, land use, and drainage. Element 3 shall include the following information:

- i. Common mapping standards as listed above.
- ii. Locations of any proposed roads within the reclaimed area and their connection to present public roads beyond.
- iii. Locations of any lakes, ponds, or streams proposed within the reclaimed area and their connections to streams or drainageways beyond.
- iv. Locations of any proposed man-made structures within the reclaimed area (dams, buildings, etc.).
- v. Locations of all buildings within three hundred (300) feet of the perimeter of the mining site.
- vi. Area where vegetation is to be established and indicate types of vegetative cover.
- vii. Describe the degree of flexibility considered to be needed in execution of the plan.

(e) *Element 4: Use of Reclaimed Land*. The purpose of Element 4 is to show that the final land form portrayed in the drawings for Element 3 has a viable land use compatible with land use trends of the surrounding area. The base map for this element should be the final land form map upon which shall be shown, by overlays or separate drawings and notes, one or more developed schemes for end land use or uses, each demonstrating that developed areas are accessible by roads and that physical attributes of the final land form are compatible with the proposed use or uses. It is understood that this is a hypothetical exercise and will be evaluated as such. It should not be considered a commitment to the use portrayed by either the applicant or the County as such end use or uses may require additional zoning and review for approval. Element 4 shall include all the information required in Element 3: Reclamation Plan (Final Land Form).

#### 7. Operation Requirements.

- a. Existing trees, shrubs, and other types of woody vegetation along road frontages shall be protected and maintained. Weeds and other unsightly noxious vegetation shall be cut or trimmed as necessary to present a neat appearance and prevent the hazard of grass fires.
- b. No earth extraction and/or mining operation(s) is permitted to operate in such a manner that the groundwater table of surrounding properties is adversely impacted. In the case of mining operations, water pumped from the site for the purpose of washing shall be retained in a pond until the silt and clay settles and then the water recycled in the area affected. Groundwater quality shall be monitored and maintained on a regular basis in accordance with monitoring practices. Groundwater monitoring parameters are established in subsection P.8. below (Groundwater Monitoring). Monitoring reports are to be conducted on January 30, April 30, July 30 and October 30 of each year that the operation continues and submitted to the Zoning Enforcement Officer.
- c. If the subject areas front on a township road used for site access, the owner, at commencement of operations, shall bring that township road up to the paving standards required by this Ordinance from the entrance of the subject area to the nearest federal, state, or County road used by the operator. The owner shall repair any section of road damaged as a result of hauling operations, but is not responsible for the normal wear and tear of the road. This provision does not require the operator to purchase additional right-of-way.
- d. All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements and wells, and damage to any street by slides, sinking, or collapse of supporting soil adjacent to an excavation.
- e. The following apply to earth extraction and/or mining conditions only:
  - (1) Earth extraction and/or mining operation(s) that remove and do not replace the lateral support shall be located a minimum of thirty (30) feet from property lines, established right-of-way lines of any public roads, streets, or highways unless a lesser distance is mutually agreed to by the owner and adjacent property owner and submitted in writing.
  - (2) The bottom of the slope of the excavated face shall be no closer to the point determined in subsection P.7.e.(1) above, than a distance equal to one and one-half



(1½) times the depth of the excavation.

(3) If consolidated materials occur in the excavated face, the slope of the face may be steeper than one and one-half (1½) to one (1) slope per subsection P.7.e.(2) above for the depth(s) of those materials, however all other excavated slopes of unconsolidated materials are limited to one and one-half (1½) to one (1) slope.

(4) In the case that the right-of-way has not been recently surveyed by a registered land surveyor and clearly marked, the right-of-way line is assumed to be, for the purpose of this section, a minimum of forty (40) feet from the centerline of the existing road.

f. All active operations shall be separated by an earthen berm no less than six (6) feet in height and/or a farm fence of no less than fifty-four (54) inches in height, and designed to allow the free flow of wild animals, but discourage trespassing by humans and farm animals. Berms that remain in place for one (1) year or longer shall be planted with grass, shrubs, and trees, and maintained as a visual and acoustical screen. They shall be designed so that they do not erode into the road or highway right-of-way or onto a contiguous property. All berms located along roadways must comply with all applicable state regulations.

g. The processing and stockpiling of aggregate resources is prohibited within three hundred (300) feet of the property line of any contiguous property in a residential zoning district.

h. The hours of operation for all activities, other than maintenance functions, are restricted to 5 a.m. to 9 p.m. from April 1 until October 31. The remainder of the year, the hours of operation are restricted to 6 a.m. to 6 p.m. In emergency situations, operations are permitted at times otherwise prohibited. An emergency situation, for the purpose of this section, is any operation necessary to provide repairs to roadways or provide other materials and assistance that, if delayed until normally permitted hours, would cause injury or loss of life or property. Any emergency operation or activity under this section shall be immediately reported to the McHenry County Sheriff's Department and reported to the Zoning Enforcement Officer the next business day.

i. Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements.

j. Access ways and on-site roads shall be maintained in a dust-free condition.

k. The premises shall be neat and orderly, free from junk, trash, or unnecessary debris. Buildings shall be maintained in a sound condition and in good repair and appearance. Salvageable equipment stored in a non-operating condition shall be suitably screened or garaged.

l. Enough topsoil shall be stockpiled to meet the required finished conditions.

m. No operations may occur on the property without an Annual Operations Permit issued by the Zoning Enforcement Officer. The operations permit may be for less than the total area proposed. The construction of access or haul roads, building and landscape of required berms, and other site improvements required for site preparation do not require an Annual Operations Permit.

n. At all times, the owner shall take adequate measures to insure that contaminated surface water run-off does not enter ponds, streams, wetlands, or other areas of open standing water.

o. The owner shall take adequate measures within the site to insure that trucks, exiting the site on roadways, do not discharge earth materials or debris on the roadway.

p. The Zoning Enforcement Officer, or a duly authorized representative, has the free right of access to the subject property for the purpose of inspections, making water level measurements, obtaining water or material samples, and for gathering other information necessary for the proper discharge of responsibilities.

q. The owner is assessed an annual fee to pay for compliance monitoring based on costs.

#### 8. *Groundwater Monitoring.*

##### a. *General Requirements.*

(1) The cost of setting up a groundwater monitoring network, monitoring and any remedial action to remedy contamination caused by the earth material extraction site is the responsibility of the owner.

(2) The owner shall notify the Zoning Enforcement Officer at least twenty-four (24) hours prior to sampling of the time and day that groundwater samples will be taken.

(3) The Zoning Enforcement Officer, in conjunction with the Department of Health, reserves the right to enter the earth materials extraction site at all reasonable hours to collect samples or to co-sample any monitoring well.

(4) Upon renewal of a conditional use permit for an existing earth extraction operation or upon approval of a conditional use permit for a new earth extraction operation a baseline PNA (Polynuclear Aromatics) shall be conducted.

##### b. *Monitoring Well Requirements.*

(1) For operations that currently exist pursuant to a previously issued conditional use permit by the County Board, the current groundwater wells will be used to meet the groundwater monitoring requirements.

(2) Those earth extraction operations that are not required to conduct groundwater monitoring as of the date of adoption of this Ordinance shall establish site specific geology, aquifers and groundwater flows by a qualified professional hydrogeologist. Monitoring well locations shall be representative of the aquifer(s) impacted by the earth material extraction operation. There shall be a minimum of one (1) up-gradient and two (2) down-gradient wells established. The location, number of wells, and depth(s) shall be contingent on the hydrogeological evaluation. Construction techniques and materials used shall be those consistent with acceptable standards for groundwater monitoring wells. Plans for placement, materials and construction details shall be submitted in writing by the hydrogeologist to the Zoning Enforcement Officer prior to construction. Monitoring wells shall not be modified, deepened, or relocated without the prior approval of the Zoning Enforcement Officer.

(3) Monitoring wells shall not be obstructed and shall remain accessible at all times for sampling.

(4) Monitoring wells shall be maintained in good condition as designed and constructed and shall be protected from vehicular traffic.

(5) Monitoring wells that have an insufficient quantity of water to conduct sampling for two (2) consecutive sampling events shall be deepened or relocated as approved by the Zoning Enforcement Officer to yield groundwater samples.

##### c. *Sampling Frequency and Parameters.*

(1) Quarterly sampling shall be for those parameters listed in the general groundwater quality and contamination indicators in Table 16.56-1: General Groundwater Quality Indicators. Results shall be provided in an electronic format to the Zoning Enforcement Officer within forty-five (45) days of the sampling.

(2) When sample results confirm an exceedance of chloride, nitrate or ammonium nitrogen, or a detection of benzene, toluene, ethylbenzene or xylene, the monitoring well shall be re-sampled for that parameter within thirty (30) calendar days with a copy of the results provided in an electronic format to the Zoning Enforcement Officer within fourteen (14) calendar days of the sampling.

(3) Sampling of chloride, nitrate, pH, ammonium nitrogen, and specific conductance, may be reduced to annual subsequent to establishment of the background groundwater quality if there have been no exceedances of chloride, nitrate, or ammonium nitrogen for the most recent full year of sampling.

(4) Sampling of benzene, toluene, ethylbenzene and xylene may be reduced to annual subsequent to establishment of the background groundwater quality if there have been no detections of benzene, toluene, ethylbenzene, and xylene for the most recent full year of sampling.

(5) In the event of an exceedance of chloride, nitrate, or ammonium nitrogen, the sampling frequency for that parameter shall return to quarterly.

(6) In the event of a detection of benzene, toluene, ethylbenzene, or xylene, the sampling frequency for that parameter shall return to quarterly.

(7) Where asphalt batching, concrete mixing, or where petroleum products or other hazardous chemical storage takes place, the Zoning Enforcement Officer reserves the right to request additional parameters to be tested.

(8) Additional water sampling parameters or frequency may be required if water contamination is indicated. This will be determined by the Zoning Enforcement Officer in conjunction with the Department of Health and the owner. The Zoning Enforcement Officer will notify the owner of the modified sampling parameters required.

(9) Water samples are to be taken and tested by Illinois Environmental Protection Agency approved methods and procedures and protocol. The test wells shall be purged two (2) times the volume of the well before the sample is drawn.

(10) In the event that an exceedance of chloride, nitrate, or ammonium nitrogen is due to natural background, resulted from an error in sampling, analysis, or evaluation,

or does not exceed the MCLs (maximum contaminant levels) set forth in Table 16.56-1 and does not cause adverse health effects, the Zoning Enforcement Officer may, after consultation with the Department of Health, allow the sampling frequency to be reduced to annual.

(11) In the event that an exceedance of chloride, nitrate, or ammonium nitrogen is due to natural background or does not exceed the MCLs set forth in Table 16.56-1 and does not cause adverse health effects, the Zoning Enforcement Officer may, after consultation with the Department of Health, waive the requirement to resample the monitoring well within thirty (30) calendar days.

**d. Corrective (Remedial) Action.**

(1) Corrective action shall take place if a constituent is detected at or above the groundwater quality standard level contained in Table 16.56-1 or the background water quality is exceeded by three (3) standard deviations. Corrective action shall include an inspection of the site by a qualified professional hydrogeologist to evaluate and identify any potential up-gradient, on-site, and down-gradient sources of contamination.

(2) Background water quality shall be established by sampling one or more monitoring points at depths and locations sufficient to yield groundwater samples that are representative of background water quality. Background groundwater quality for indicator parameters shall be determined by averaging a minimum of eight (8) sample results (over the normal two-year (2-year) sample period) for each well. The Zoning Enforcement Officer, in conjunction with the Department of Health, may exclude any sample result that is non-representative of background water quality.

(3) Standard deviation for a group of samples is equal to the square root of: the value of the sum of the squares of the difference between each sample in the sample group and the mean for that sample group divided by the number of samples in the sample group.

(4) Investigative and corrective action shall begin to take place immediately upon receipt of reports which indicate contamination unless the Zoning Enforcement Officer specifies in writing upon application of the owner or operator wherein the owner or operator has demonstrated clearly to the Zoning Enforcement Officer in conjunction with the Department of Health that one of the following has occurred:

- (a) The source of contamination is due to natural background.
- (b) The detection resulted from error in sampling, analysis, or evaluation.

(c) The contamination will not exceed the MCLs set forth in Table 16.56-1, the contaminants do not cause adverse health effects, and all actions have been undertaken to ensure the degree and extent of contamination is reduced.

(d) The contamination is a result of contaminants remaining in groundwater from a prior release for which corrective action was undertaken in accordance with instructions from the appropriate agency.

(e) The contamination is from a release up-gradient of the monitoring wells and is clearly not from any activities on the site.

(5) Corrective action shall be to remediate the contamination to below the action levels established herein and to strive to re-establish groundwater quality levels similar to up-gradient groundwater quality. The cost of this remediation shall be borne by the party that caused the contamination to be introduced. If it is determined that the contamination is a result of the owner's operation, the owner shall be responsible for the cost.

**TABLE 16.56-1: GENERAL GROUNDWATER QUALITY INDICATORS**

<b>General Indicators</b>	<b>Primary Standards</b>	<b>Secondary Standards</b>
<b>TABLE 16.56-1: GENERAL GROUNDWATER QUALITY INDICATORS</b>		
<b>General Indicators</b>	<b>Primary Standards</b>	<b>Secondary Standards</b>
Chloride	250 mg/l	
Nitrate (As N)	10 mg/l	
Ph		< 6.5—8.5 >
Ammonium Nitrogen		< 1.5
Specific Conductance		850 umhos/cm
Benzene	0.005 mg/l	
Toluene	1.0 mg/l	
Ethylbenzene	0.7 mg/l	
Xylene (Total)	10.0 mg/l	
<b>Polynuclear Aromatics (PNA) Chemical Compound</b>	<b>Primary Standards</b>	
Acenaphthene	0.42 mg/L	
Acenaphthylene*	0.023 mg/L	
Anthracene	2.1 mg/L	
Benzo (a) anthracene	0.00013 mg/L	
Benzo (b) fluoranthene	0.00018 mg/L	
Benzo (k) fluoranthene	0.00017 mg/L	
Benzo (a) pyrene	0.0002 mg/L	
Benzo (g,h,i) perylene*	0.0076 mg/L	
Chrysene	0.0015 mg/L	
Dibenzo (a,h) anthracene	0.0003 mg/L	
Fluoranthene	0.28 mg/L	
Fluorene	0.28 mg/L	
Indeno (1,2,3-c,d) pyrene	0.00043 mg/L	
Naphthalene	0.025 mg/L	
Phenanthrene*	0.0064 mg/L	
Pyrene	0.21 mg/L	
Groundwater levels shall be measured in feet to one decimal place each time a sample is taken. The Standards will be updated based on USEPA recommendations.		

**e. Cessation of Monitoring.**

(1) Upon completion of extraction and reclamation and acceptance of the completion of these items by the Zoning Enforcement Officer, the owner/operator shall be responsible for ground water testing for one year. Remediation shall be the responsibility of the owner. The County shall continue to hold the letter of credit/bond for reclamation until one (1) year has expired.

(2) After the one-year (1-year) monitoring period has been completed monitoring wells must be sealed per the requirements of the McHenry County Public Health Ordinance under a permit issued by the Department of Health at a cost to be borne by the operator.

**9. Enforcement.**

a. The Zoning Enforcement Officer, in conjunction with other appropriate departments, will review annually each earth extraction and/or mining conditional use permit. In

addition to the reclamation plan and map, the owner shall provide the Department of Planning and Development with an annual aerial photo of the total operation, enlarged to a scale of one inch to one hundred feet (1"=100') or other scale that would adequately display the property affected on a thirty-inch (30") square format. All aerial photos shall meet Department of Planning and Development standards. The first photo shall be taken during the first year in operation and subsequent photos taken in the same month of the following years. Each year's photo shall be presented at the same scale for the purpose of comparison. Photos or contracts for photos shall be submitted prior to the issuance of the Annual Operating Permit.

b. If it is determined that the operator is not in substantial compliance with this Ordinance, the bonding requirements, the simultaneous reclamation and operation statement, or the reclamation plan/map, the Zoning Enforcement Officer will issue a stop work order on all operations other than reclamation work needed to bring the operation into compliance.

c. Every five (5) years, at the time of the annual review, bonding, release of bond, and re-bonding will be checked as specified in this section. In addition, the owner shall provide the Zoning Enforcement Officer with a topographic survey with two-foot (2') contours, at the same scale as the aerial photo. The topographic survey shall show the status of existing conditions on the subject site. The Zoning Enforcement Officer, in conjunction with the Department of Planning and Development, will prepare a report and submit it to the Planning and Development Committee for their review.

d. Before release of a bond, an on-site inspection of the acreage reclaimed shall be made by the Zoning Enforcement Officer in conjunction with other appropriate departments to check for compliance with the reclamation plan and any additional conditions of the conditional use permit. A random count procedure will be used to check seeding, plantings, and depth of topsoil.

Q. *Fairground.*

1. Fairgrounds must be a minimum of forty (40) acres in size.
2. All structures must be set back fifty (50) feet from any lot line.
3. All parking areas must be set back twenty (20) feet from any lot line.
4. Accessory structures and uses consistent with the operations of a fairground, such as structures and stalls for retail sales, games, and exhibitions, are permitted. Such accessory uses are permitted to operate only when events are held at the fairground.
5. At fairgrounds, horse racing events of all types, including horse racing spectator sport event for a commercial purpose, shall be permitted.

R. *Farmstand.*

1. Farmstands are permitted on lots or parcels used for agricultural operations and on lots or parcels in the commercial zoning districts regardless of the presence of agricultural operations.
2. In zoning districts other than residential zoning districts the following standards apply.
  - a. Farmstands may sell raw fruits and vegetables without limitation as to the source of the items.
  - b. Farmstands may sell nursery stock, eggs, meat, and dairy products produced on property owned or operated by the farmstand owner or operator.
  - c. Farmstands may sell honey and prepared foods as allowed by the Illinois "Home Kitchen Operation" section of the Food Handling Regulation Enforcement Act (410 ILCS 625/3.4).
  - d. Farmstands may sell agricultural crafts.
  - e. Farmstands shall not sell any other items not specified above.
3. In residential zoning districts, farmstands shall only sell raw fruits, vegetables, and eggs produced on the property where the farmstand is located.
4. All food products shall be prepared and handled in accordance with all applicable state and County regulations. Any sales of food products shall meet all rules and regulations and require approval of the Department of Public Health.
5. Farmstand operations may be conducted out of an agriculture exempt building with approval of the applicable fire district.

S. *Flea Market.*

1. Temporary stalls or tables for the sale of their products are permitted.
2. Sales may involve new and/or used items.
3. Any sales of food products shall meet all rules and regulations and require approval of the Department of Public Health.
4. Individual sellers at the flea market need not be the same each time the market is in operation.

T. *Government Facilities.* A thirty (30) foot setback is required along all interior side and rear lot lines, unless a larger setback is required by the zoning district regulations, for such facilities.

U. *Greenhouse/Nursery Business.*

1. All greenhouses and associated buildings shall meet building setback requirements for the zoning district in which they are located.
2. In the agricultural zoning districts, customer access shall be limited to Farmstands that meet the standards of subsection R. above (Farmstand), except that customers may access nursery areas and enter greenhouse structures as necessary for the selection of products.
3. In the commercial zoning districts, customer access shall be limited to Farmstands that meet the standards of subsection R. above (Farmstand), except that customers may access nursery areas and enter greenhouse structures as necessary for the selection of products. Additional retail and office structures may be utilized, provided they comply with all applicable building code requirements.
4. In the agricultural zoning districts, only products grown on-site are permitted to be sold on-site, except for necessary potting and packaging materials.
5. Products grown on-site need not be produced from seeds or grafts. However, detectable growth or maturing of the plants or ripening of the fruits or vegetables must occur. Merely storing potted or balled plants on the ground or in a greenhouse does not meet the requirements of this provision.
6. A greenhouse/nursery business may include the vehicles, equipment, and materials necessary for the delivery and installation of nursery or greenhouse stock on customer properties without requiring a conditional use permit. However a greenhouse/nursery business may not provide other landscape business services unless it obtains a conditional use permit, if required, and meets the use standards for a landscape business.

V. *Horse Stable.*

1. The minimum lot size is two (2) acres.
2. A maximum of three (3) horses may be maintained on a two-acre (2-acre) parcel. An additional gross lot area of fourteen thousand (14,000) square feet is required for each additional horse over eight (8) months of age on lots or parcels up to five (5) acres in area. Lots or parcel of five (5) or more acres are not subject to a minimum lot area per horse.
3. The following activities are permitted as part of the operation of a horse stable:
  - a. Riding lessons.
  - b. Boarding horses.
  - c. Renting horses for recreational riding.
  - d. Horse shows, which may be conducted without a temporary use permit. Horse shows exclude Horse Racing Spectator Sport for a Commercial Purpose.
  - e. Therapeutic riding.

- f. Training.
- g. Educational equestrian clinics.

W. *Hotel/Motel.*

1. A hotel/motel requires a license from the County to operate. All licenses to operate shall be prominently displayed in the office of the hotel/motel.
2. Every hotel/motel requires an attendant on duty at all times. The attendant shall maintain the hotel/motel, its facilities and any equipment in a clean, orderly, and sanitary condition.
3. A minimum area of three hundred (300) square feet is required for each hotel room. An additional fifty (50) square feet is required if cooking facilities are provided.

X. *Kennel - Commercial /Animal Care Shelters.*

1. All Commercial Kennels and any Animal Care Shelter that accepts dogs shall meet the standards of this section.
2. The applicant must provide a report to the McHenry County Department of Health to describe how the proposed kennel will provide sanitary disposal, solid waste disposal, and noise control. The report shall be approved by the McHenry County Department of Health prior to approval of the use.
3. A site plan shall be submitted showing the location of structures, exercise yards, pens, landscape features, fences, and any additional noise buffer or visual screening elements.
4. All kennel structures shall meet all applicable requirements of the building code and sound attenuated to minimize animal noise.
5. Exercise yards, when provided for training or exercising, are restricted to use from dawn to dusk.
6. All kennel structures and exercise yards shall be set back a minimum of one hundred (100) feet from all lot lines.

Y. *Landing Area, Restricted/ Landing Area, Restricted – Personal Use.*

1. The facility shall meet all standards of the United States Department of Transportation, Federal Aviation Administration and the Illinois Department of Transportation, Division of Aeronautics for the class of facility proposed, and be designed and constructed in accordance with all state and federal rules and regulations.
2. A site of five (5) acres or more is required for any facility if it is not restricted to personal use.
3. Commercial parachute operations, flight instruction, and fly-in events are prohibited, except for as provided for in Illinois Department of Transportation regulations.
4. Aircraft service facilities, such as hangars, fuel and aircraft maintenance facilities, and pilot and passenger facilities are limited to facilities necessary for the use of the owner and his/her invited guests.
5. The use of a Restricted Landing Area – Personal Use is limited to use of the owner and his/her invited guests free of charge.

Z. *Landscape Business.*

1. Storage areas shall be restricted to those areas so designated on the site plan.
2. All landscape business vehicles and equipment shall be stored entirely within an enclosed structure or in a permitted exterior storage area.
3. Preparation, assembly, and processing of materials shall occur wholly indoors or within the permitted exterior storage area only.
4. Storage shall be limited to vehicles, equipment, and materials owned or leased by the property owner or tenant.
5. All vehicles stored on-site must have current plate registration.
6. All structures utilized by the Landscape Business must meet all applicable building codes for the occupancy category.
7. Vehicle oil changes and maintenance shall occur only inside of an enclosed structure meeting all applicable building and plumbing codes.
8. On-site retail sales are prohibited, except as allowed by a Greenhouse/Nursery Business.
9. The collection and storage of landscape waste at the facility shall be limited to tree branches two (2) inches or greater in diameter, free of leaves, to be used as raw material to produce a legitimate product (i.e. firewood, mulch, wood chips), so long as it is processed in a reasonable amount of time, as determined by the Illinois Environmental Protection Agency Bureau of Land Permit Section.
10. A landscape business shall not store asphalt paving equipment or supplies.
11. Storage of pavement de-icing agents shall comply with § 16.56.050E. (De-Icing Agent Storage).
12. Employee parking shall be provided in accordance with Chapter 16.64 (Off-Street Parking and Loading).
13. Employee bathrooms shall be provided in accordance with the McHenry County Public Health Ordinance and Illinois State Plumbing Code.
14. All storage areas, parking areas, and buildings shall comply with required setbacks for the zoning district.

AA. *Landscape Waste Composting Facility.*

1. The operation of a landscape waste composting facility is prohibited unless all permits required by the Illinois Environmental Protection Agency (IEPA) have been obtained and are maintained. A copy of the landscape waste composting permit application submitted to the IEPA, or written evidence stating that the permit is not required from the IEPA, must be submitted to the County with the conditional use permit application. Final IEPA permit approval, if required, must be obtained prior to commencing operations.
2. A landscape waste composting facility may compost animal waste if allowed under the Illinois Environmental Protection Agency permit.
3. IEPA Permitted Landscape Waste Compost Facilities shall meet all requirements of Illinois Administrative Code Title 35, Subtitle G, Part 830, 831, and 832.
4. IEPA Permitted Landscape Waste Compost Facilities shall meet the following additional standards:
  - a. The landscape waste composting facility shall be a minimum of ten (10) acres.
  - b. The site shall be screened and include acoustical shielding.
  - c. Except in the industrial zoning districts, the hours during which landscape waste may be accepted are restricted to 7:00 a.m. to 5:00 p.m., Monday through Saturday.

BB. *Marina.*

1. All marinas require site plan review.
2. A minimum site of two (2) acres is required.
3. All buildings shall be set back at least twenty-five (25) feet from all lot lines, unless a greater setback is required by the zoning district regulations. However, boathouses, boardwalks, piers, and fueling facilities shall be permitted a waterfront set back of zero (0) feet.
4. Any boat construction and/or engine repair shall be conducted indoors.

CC. *Cannabis Dispensary, Cannabis Craft Growers, or Cannabis Cultivation Center.*

1. All Cannabis Dispensaries, Craft Growers and Cultivation Centers shall comply with all state rules and regulations.
2. Cannabis Dispensaries shall comply with the following:
  - a. Cannabis Dispensaries shall be registered by the Illinois Department of Financial and Professional Regulation.
  - b. Cannabis Dispensary shall not be located within one thousand (1,000) feet of the property line of a pre-existing public or private preschool, elementary school, or

secondary school, or RESIDENTIAL CARE FACILITY providing addiction recovery services.

c. Cannabis Dispensaries shall implement appropriate security measures to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.

3. Cannabis Craft Growers shall comply with the following:

a. Cannabis Craft Growers shall be registered by the Illinois Department of Agriculture.

b. Cannabis Craft Growers shall only be located within the Agricultural zoning districts and shall not be located within two thousand five hundred (2,500) feet of the property line of a pre-existing public or private preschool, elementary school, or secondary school.

c. All cultivation of cannabis shall take place in an enclosed locked facility.

4. Cannabis Cultivation Centers shall comply with the following:

a. Cannabis Cultivation Centers shall be registered by the Illinois Department of Agriculture.

b. Cannabis Cultivation Center shall not be located within two thousand five hundred (2,500) feet of the property line of a pre-existing public or private preschool, elementary school, or secondary school, or an area zoned for residential use.

c. All cultivation of cannabis shall take place in an enclosed locked facility.

DD. *Mobile Home Park*. The design and operation of mobile home parks is governed by the following requirements:

1. All mobile home parks require site plan review.

2. Every mobile home park requires an attendant on duty at all times. The attendant shall maintain the park, its facilities and any equipment in a clean, orderly and sanitary condition.

3. Each mobile home shall be allotted a site of not less than three thousand five hundred (3,500) square feet. Boundaries of each mobile home site shall be clearly marked.

4. No mobile home shall be parked closer than seven and one-half (7½) feet to the side lot lines of a mobile home park, or closer than fifteen (15) feet to the front or rear lot line.

5. There shall be an open space of at least fifteen (15) feet between the sides of mobile homes and at least twenty (20) feet between the ends of mobile homes. Bay windows, porches, canopies, or other projections are considered sides or ends of a mobile home when determining these requirements. Such projections, such as porches and canopies, shall be constructed of fireproof material that meets the requirements of the building code.

6. Each mobile home site shall have a concrete slab or runway for the mobile home to set on, and be of a size large enough to accommodate a mobile home in such a fashion that the concrete will extend at least one (1) inch around the mobile home on all sides.

7. There shall be a concrete slab alongside of each mobile home site of at least twelve (12) feet by thirty (30) feet to be used as a parking space for the occupants of the mobile home. If a canopy is to be used over the area designated as car storage, it must be of fireproof material and allowed only at the rear end of each carport area.

8. The concrete slab used for both trailer and carport shall be a six-inch (6") reinforced concrete slab poured over a base of compressed gravel, the minimum thickness of which is at least eight (8) inches.

9. All skirts around mobile homes shall be constructed of fireproof material that meets the requirements of the building code.

10. All street and driveways in every mobile home park must be constructed and maintained at least thirty (30) feet in width with twenty (20) feet of hard pavement surface applied over eight (8) inches of crushed compact gravel.

11. All buildings constructed within the mobile home park shall meet building code regulations.

12. A sufficient number of adequate fly-proof and watertight containers shall be supplied for the storage of garbage. Garbage containers shall be emptied at least every three (3) days and shall not be filled to overflowing, or allowed to become foul smelling or a breeding place for flies. Adequate insect and rodent control measures shall be employed. All buildings shall be fly- and rodent-proof, and rodent harborages must be eliminated.

EE. *Off-Premises Commercial Advertising Sign*. The following standards apply to all off-premises commercial advertising signs, unless more restrictive standards are required by the state. All off-premises commercial advertising signs shall be measured in accordance with the standards of § 16.72.050 (Sign Dimension Computations).

1. No off-premises commercial advertising sign may be located within one hundred (100) feet of any residential zoning district or residential structure located in an agricultural zoning district. When an off-premises commercial advertising sign one hundred and fifty (150) square feet or larger in size is located within five hundred (500) feet of a residential zoning district, or within five hundred (500) feet of a residential structure within an agricultural zoning district, a conditional use permit is required.

2. Each off-premises commercial advertising sign must be located at least three hundred (300) feet from another off-premises advertising sign.

3. Off-premises commercial advertising signs must be located at least five (5) feet from any side lot line and ten (10) feet from a street lot line.

4. Off-premises commercial advertising signs are limited to a maximum height of thirty-five (35) feet, as measured from the grade of the roadway.

5. Off-premises commercial advertising signs are limited to a maximum sign area of two hundred sixty (260) square feet unless the sign is oriented to an Interstate Highway with a posted speed limit in excess of fifty five (55) miles per hour, in which case the maximum sign area is four hundred (400) square feet.

6. Off-premises commercial advertising signs are limited two (2) sides placed either back-to-back or in a V-type configuration, provided that the angle between V-type mounted sign faces does not exceed forty-five (45) degrees. If the angle between two (2) sign faces is greater than forty-five (45) degrees, the sign area is computed as the sum of the areas of the two (2) faces (see [Figure 16.72-3](#)).

7. Off-premises commercial advertising signs shall be maintained in sound structural condition and shall comply with all building and electrical codes.

8. Off-premises commercial advertising signs shall not create obstacles or traffic hazards by distracting or confusing motorists, impairing motorists' ability to see pedestrians, read other traffic signs, or see other vehicles.

9. A conditional use permit is required for all digital off-premises commercial advertising signs. In addition, digital off-premises commercial advertising signs must meet the following standards:

a. Each message or image displayed on a digital off-premises commercial advertising signs must be static or depicted for a minimum of ten (10) seconds. Animation, streaming video, and images that move or give the appearance of movement are prohibited.

b. A digital off-premises commercial advertising sign must not exceed a maximum illumination of three-tenths (0.3) footcandles above the ambient light level when measured from a distance equal to the square root of the square footage of the sign multiplied by one hundred. (measurement distance = ( sign area ) x 100) All digital off-premises commercial advertising signs must have ambient light monitors installed, which automatically adjust the brightness level based on ambient light conditions.

c. In response to complaints, the Zoning Enforcement Officer may require that the owner of a digital off-premises commercial advertising sign submit a certification demonstrating that the sign complies with the maximum illumination standards.

d. All digital off-premises commercial advertising sign must be programmed to automatically revert to a full black screen in the event of a malfunction.

e. Conversion of an existing non-digital off-premises commercial advertising sign to a digital off-premises commercial advertising sign is subject to the following:

(1) A conforming off-premises commercial advertising sign may be converted to a digital sign with approval of a conditional use permit.

(2) A nonconforming off-premises commercial advertising sign within a district that permits such signs may be converted to a digital off-premises commercial advertising sign if the nonconformity is remedied (i.e., the sign is brought into compliance) and a conditional use permit is approved.

(3) A nonconforming off-premises commercial advertising sign within a district that does not permit such signs may not be converted to a digital off-premises commercial advertising sign.

10. The owner of a digital off-premises commercial advertising sign shall provide the County with space for public service announcements including Amber Alerts, weather

related evacuations, or other emergency situations.

11. An off-premises commercial advertising sign may be utilized to display a noncommercial message under the same standards as the display of a commercial message, unless otherwise allowed or restricted by State laws including, but not limited to, the Illinois Election Code and/or 10 ILCS 5/1-1 *et seq.* as enforced by State Board of Elections or other appropriate officials.

FF. *Place of Worship.*

1. All places of worship require site plan review.
2. The location of entrances, exits, and parking facilities shall be designed in compliance with the McHenry County Access Control and Right-of-Way Management Ordinance and designed to minimize traffic congestion. Circulation systems and off-street parking shall be designed to provide adequate and safe access to the site for motor vehicles and minimize potentially dangerous traffic movements.

GG. *Pollution Control Facility.* All pollution control facilities shall comply with the Pollution Control Facility Siting Ordinance of McHenry County.

HH. *Poultry and Small Animal Processing Plant.* Poultry and small animal processing plant subject to the following conditions:

1. A maximum of twenty-one thousand (21,000) units a week. All animals are counted as 1 (one) animal unit except turkeys and geese, which are counted as four and one-half (4.5) animal units.
2. Facilities (the unloading area) must be located at least four hundred (400) feet from any principle structure.
3. No rendering may take place on the site.
4. Live animals may be held on the site for no more than twenty-four (24) hours.
5. All slaughtering/processing is permitted only in an enclosed building.
6. The number of hours and days of operation to be determined by the County Board.
7. Poultry processed to be sold for retail or wholesale sale shall be specified in the special use permit as a condition.
8. Parking shall be in accordance with Chapter 16.60 (Site Development Standards), including § 16.60.020 (Exterior Lighting).
9. All applicable federal, state, and county rules and regulations shall apply.
10. Other such conditions as approved by the County Board.
11. Waste, by-products, or any decomposable residue which results from the slaughtering of animals must be kept in a sealed container and picked up within forty-eight (48) hours.
12. All signage shall comply with the provisions of Chapter 16.72 (Signs).
13. The facility shall satisfy all requirements of the McHenry County Health Ordinance and applicable building codes.

II. *Power Production (Gas or Coal).* The following requirements apply to utility power producers with a generating capacity of ten (10) megawatts or greater, excluding solar farms and wind energy systems.

1. A site plan identifying all proposed buildings, towers, generators, transformers, and all other structures to be placed on the property in question shall be submitted as part of the application process. Details relating to site design include, but are not limited to, landscape, grading, screening, berming, ingress and egress, and parking. Natural features, such as mature tree stands, wetlands, flood hazard areas, topography, character and composition of vegetation and wildlife, or other prominent physical features on the property shall also be identified in relation to the proposed facility. Additionally, a land use inventory depicting the current use of properties within one-half (½) mile of the property in question is required. In the case where the site is a portion of a larger parcel, the half-mile (1/2-mile) delineation is measured from the boundaries of the larger parcel.

2. A visual impact assessment is required. Such an assessment shall identify aesthetic impacts of the proposed facility on the existing landscape and the proposed treatment of those impacts. Proposed treatment of visual impacts shall be graphically represented on the site plan. Screening and berming shall, at a minimum, comply with the requirements of this Ordinance.

3. Containment is required around transformers to control spillage. A Spill Prevention Containment and Control Plan shall be filed with the Zoning Enforcement Officer and McHenry County Emergency Management Agency prior to the issuance of a certificate of occupancy for the facility.

4. All chemicals, lubricants, and oils stored and/or used on-site shall be stored in sturdy containers that are durable, waterproof, and/or rust resistant with sufficient capacity to accommodate materials collected, and secured by some means to prevent unauthorized entry or removal of materials. All containers shall be covered, secured, and maintained in good condition. A list of all chemicals, lubricants, and oils along with any manufacturer's specifications and data sheets shall be filed with the Zoning Enforcement Officer and McHenry County Emergency Management Agency prior to the issuance of a certificate of occupancy for the facility.

5. Groundwater used in the power generation process is limited to cased deep aquifer (St. Peter's Sandstone Formation) wells. Process water usage shall be metered and consumption figures supplied to the Zoning Enforcement Officer on a monthly basis.

6. The petitioner shall submit, as part of the application process, a comprehensive groundwater study by an Illinois licensed geologist that identifies impacts of water consumption by the facility on both the deep and shallow aquifers. Additionally, impacts to any surface water features including, but not limited to, lakes, streams, wetlands, fens, ponds, marshes, or other surface water feature shall be identified. At a minimum, impacts to shallow and deep aquifers and surface water features within one-half (½) mile of the perimeter of the site shall be identified.

7. All process wastewater shall be contained and treated as required by applicable state or local laws.

8. The sound level shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations. The applicant shall submit a noise impact study that identifies ambient noise levels within one and one-half (1½) miles of the property in question as well as an implementation plan for noise mitigation which meets or is below the criterion identified in this standard.

9. Air emissions and total hours of operation are regulated through permits issued by the Illinois Environmental Protection Agency (IEPA). Applicants shall secure construction permits through the IEPA prior to submission of an application. Facility operators shall continuously monitor air emissions during operation and report the monitoring results to the Zoning Enforcement Officer on a monthly basis. All costs associated with monitoring and reporting are at the expense of the owner of such facility and not the County. These hours of operation or emission standards cannot be altered through the use of emissions credits or other means aside from modification (e.g., reapplication) of the approved permit. Applicant shall submit an air impact analysis which identifies air quality in the vicinity of the property in question as well as a strategy for mitigation of emissions to enable the facility to operate at a level which meets or is below the limits established through IEPA permits.

10. If operations at any approved facility ceases for a period of twenty-four (24) consecutive months, removal of all equipment, structures, foundations, tanks, towers, fences, and berms is required and shall be completed within nine (9) months. The site shall be returned to its previous landscape as documented by the natural features identified in the site plan. A bond or letter of credit in the amount of one hundred fifty percent (150%) of an independent engineer's estimate of site clean-up and restoration shall be submitted to the Zoning Enforcement Officer prior to the issuance of a certificate of occupancy for the facility and maintained throughout the life of the permit. An annual affidavit of operation shall be filed with the Zoning Enforcement Officer not later than January 31 for each calendar year in which the facility is in operation.

11. All reports, studies, analysis, and plans required under these regulations shall be prepared by technically competent firms and/or individuals who possess a level of education, certification, experience, and expertise, or combination thereof, and are of capable of highly technical analysis and recommendation in each field of specialization.

12. To the extent that the property values of any residence within the vicinity of a facility are negatively affected, a property value protection program, with language as drafted and approved by the McHenry County State's Attorney, may be required as a condition of approval. Implementation of such a program is the responsibility of the owner of such a facility and not the County.

13. The standards identified in this section represent the minimum standards and do not preclude the establishment of monitoring and compliance fees, host fees, development agreements, or other necessary and reasonable conditions as may be appropriate to a specific site or property.

JJ. *Public Safety Training Facility.*

1. The public safety training area shall be fenced to prohibit entrance onto the property by members of the public and signs posted at one-hundred-foot (100') intervals warning members of the public of the danger.

2. Any outdoor shooting range shall comply with the requirements of commercial outdoor shooting ranges of this chapter.

3. Areas designed for the execution of emergency and survival activities shall be located on a site of adequate size to accommodate said activities. Applicants are required to present evidence of the nature of activities to be conducted on the site in question at the time of hearing. Applicants are also required to present evidence of the protective measures to be employed at the site in question at time of hearing.

4. All buildings and outdoor training areas shall be set back at least thirty (30) feet from all lot lines, unless a greater setback is required by the zoning district regulations.

*KK. Recycling Collection Center.*

1. Compliance is required with all Illinois Environmental Protection Agency regulations and McHenry County ordinances.

2. All operations shall take place in a fully enclosed building, excluding the exterior storage of material.

3. All exterior storage of material shall be in sturdy containers that are durable, waterproof, and/or rust resistant with sufficient capacity to accommodate materials collected, and secured by some means to prevent unauthorized entry or removal of materials. All containers shall be covered, secured, and maintained in good condition.

4. The recycling collection center shall meet all lot area, parcel area, lot width, yard and bulk requirements, and landscape requirements of the underlying zoning district.

5. The site shall be maintained free of litter and undesirable materials and cleared of loose debris on a daily basis.

6. The recycling collection center may only accept segregated, non-hazardous, non-special, homogeneous, non-putrescible materials, such as dry paper, glass, cans, plastic, electronics, batteries, and other reusable items.

7. All activities shall comply with all IEPA regulations including, but not limited to:

a. Containers are emptied when full, or a minimum of every three (3) days.

b. Only containers with covers are permitted.

c. Drop-off facilities shall be located a minimum of two hundred (200) feet from the nearest residential dwelling.

8. Sufficient space is provided on-site for the anticipated peak load of customers to circulate, park, and deposit recyclable materials. Space shall be provided for a minimum of ten (10) customers, or the peak load, as determined by the Zoning Enforcement Officer, whichever is higher. One (1) parking space is provided for each commercial vehicle based at and operated for the recycling center.

9. All recycling centers located within five hundred (500) feet of property zoned or occupied for residential purposes are prohibited from operating between the hours of 7:00 p.m. and 7:00 a.m.

10. Containers will be clearly marked to identify the type of material to be deposited. The center shall display a notice stating that no material can be left outside the recycling container.

11. Recycling collection centers shall be marked with a sign that clearly displays the name and phone number of the operator(s) and hours of operation. Identification, informational, and directional signs shall be installed in compliance with this Ordinance.

a. Power-driven processing equipment used for processing recyclables is prohibited, with the exception of balers, reverse vending machines, conveyors, and forklift equipment, which may be used to sort, clean, and move containers and palletized material.

*LL. Recycling Processing Facility.*

1. Compliance with the Illinois Environmental Protection Agency regulations and McHenry County ordinances is required.

2. Recycling processing facility may only accept segregated, non-hazardous, non-special, non-putrescible materials, such as dry paper, glass, cans, plastic, electronics, batteries, and other reusable items.

3. All activities shall comply with all Illinois Environmental Protection Agency regulations including, but not limited to:

a. Containers are emptied when full, or a minimum of every three (3) days.

b. Only containers with covers are used.

c. Drop-off facilities shall be located a minimum of two hundred (200) feet from the nearest residential dwelling.

4. Christmas trees may be collected and chipped into mulch or chips from December 26 through February of the following year. All chips or mulch shall be removed and used for landscape or other beneficial use.

5. Latex paint and used motor oil may be accepted for recycling at these facilities provided the materials are segregated, labeled and stored in a storage building which is lockable, vented, labeled, and located on a level intact asphalt or concrete surface. The receiving area for latex paint and used motor oil, including any storage building, shall be fenced at a minimum of seven (7) feet in height with gates to control entry at all times and secured during non-operational facility hours. Latex paint and used motor oil shall be placed inside a containment building at the close of each collection day. Latex paint and used motor oil shall be stored in containers approved by the Illinois Environmental Protection Agency and local fire and/or health officials.

6. Power-driven processing equipment is permitted.

7. The recycling processing facility shall meet all lot area, parcel area, lot width, yard and bulk requirements, and landscape requirements of the underlying zoning district.

8. All containers used for exterior storage of material shall be maintained in good condition.

9. The site shall be maintained free of litter and undesirable materials, and cleaned of loose debris on a daily basis.

10. Any unattended containers provided for collection of recyclable materials shall be of sturdy, rust resistant construction with sufficient capacity to accommodate materials to be deposited.

11. Material collection areas shall be kept free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of materials to be deposited. The facility shall display a notice stating that no material can be left outside the containers.

12. Recycling processing facilities shall be marked with a sign that displays the name and phone number of the operators and hours of operation. Identification, information, and directional signs shall be installed in compliance with this Ordinance.

13. All recycling processing facilities located within five hundred (500) feet of property zoned or occupied for residential use are prohibited from operating between the hours of 7:00 p.m. and 7:00 a.m. The facility shall be administered by on-site personnel during normal business hours.

*MM. Residential Care Facility.*

1. Application for a residential care facility shall submit the following as part of use approval:

a. A statement of the exact nature of the facility planned and services to be offered, such as treatment of mental health issues, developmental disabilities, or drug addiction and rehabilitation.

b. Provide the facility's maximum capacity, typical duration of stay, type and number of personnel to be involved in the daily operation of the facility, and any permanent residents or caretaker, if applicable.

c. The qualifications of the organization who will operate the facility. The type and number of personnel who will be involved in the daily operation of the facility.

d. A completed application form for the relevant state license or national accreditation to be sought by the organization.

e. A management plan that addresses unused pharmaceuticals in respect to disposal and wastewater and which incorporates relevant best management practices identified by the United States Environmental Protection Agency.

2. Prior to commencing operations, or at the earliest date possible, the facility shall obtain all applicable state, federal, and local licenses required for operation, and/or an



applicable national accreditation. Such licensure and accreditation must be in effect and maintained in good standing at all times.

NN. *Salvage Yard.*

1. A salvage yard shall be completely enclosed along all lot lines by a solid fence, a minimum of eight (8) feet in height, with openings only for ingress and egress. Storage of any kind is prohibited outside the fenced area.
2. The salvage yard shall obtain a National Pollutant Discharge Elimination System permit for an industrial use.
3. The salvage yard shall develop and implement a Spill Prevention Containment and Control Plan in order to protect surface and groundwater from contamination.
4. The salvage yard shall develop and implement a groundwater monitoring plan in order to detect any groundwater contamination.

OO. *Shooting Range, Outdoor – Commercial.*

1. The outdoor shooting range, including the safety area, must be under the control of the operator of the range, by ownership or lease.
2. The layout of all handgun, rifle, shotgun, trap and skeet ranges shall conform to National Rifle Association standards with regard to layout and dimensions. The range proper shall be fenced in a manner so as to prohibit entrance onto the property by members of the public, and shall have signs posted at one-hundred-foot (100') intervals warning members of the public of the danger.
3. Ranges designed for the use of handguns and rifles shall provide berms at least twenty (20) feet high and six (6) feet thick at the top, made of soft earth or other material that is unlikely to cause ricochets, and containing no large rocks. Berms shall be located as follows:
  - a. Shotgun Ranges: No berms required.
  - b. Ranges for handguns and rifles not more powerful than .22 long rifle.
    - (1) Backstop - at least one hundred fifty (150) feet from the firing line.
    - (2) Lateral - not closer than thirty (30) feet from the firing line.
  - c. Ranges for rifles more powerful than .22 long rifle.
    - (1) Backstop - at least three hundred (300) feet from the firing line.
    - (2) Lateral - not closer than thirty (30) feet from the firing line.
4. The range shall be located on a site where an uninhabited downrange safety area is available. The required length of the safety area shall be as follows:
  - a. Shotgun Ranges – one thousand five hundred (1500) feet, provided that shot size is limited to #4 or smaller.
  - b. Ranges for handguns and rifles not more powerful than .22 long rifle – seven thousand (7,000) feet.
  - c. Ranges for rifles more powerful than .22 long rifle - thirteen thousand five hundred (13,500) feet.
  - d. The downrange safety area requirement for handgun and rifle ranges may be waived if the firing line is provided with overhead baffling meeting the standards of the National Rifle Association.
5. The safety area shall conform to National Rifle Association standards for the shape and width. The safety area shall have signs posted at intervals warning of the potential danger from stray bullets.
6. The range shall provide public bathroom facilities.
7. A sign is required on the range site listing allowable types of firearms, and stating the rules of operation of the range.
8. At least one (1) range supervisor shall be present at all times when firing is taking place. The supervisor shall be certified by the National Rifle Association for the type of shooting being supervised, and know and enforce all range rules.
9. At least one (1) range flag shall be flown whenever firing is taking place. The flagpole shall be at least eighteen (18) feet high, and the flag shall be bright red, forty (40) inches long, twenty (20) inches wide at the pole, and six (6) inches wide at the free end.
10. Everyone on the firing line is required to wear hearing protection and safety glasses.
11. The outdoor shooting range shall be covered by accident and liability insurance.

PP. *Solar Farm.* Conditional use permits for solar farms shall have no time limit, unless: otherwise limited as part of the County Board approval, the use is abandoned as specified in subsection PP.4. below (Solar Farm: Abandonment), or the permit is revoked in accordance with § 16.20.0401. (Revocation of Conditional Use Permits).

1. *Application.*

- a. A threatened and endangered species consultation (EcoCAT) from the Illinois Department of Natural Resources is required at the time of conditional use permit application for any site that is five (5) acres or greater in size and currently in agricultural use or undeveloped.
- b. A site plan shall be provided showing all improvements, including structures, fencing, power lines (above and below ground), lighting, and landscaping, at a detail sufficient to understand the location, height, appearance, and area.

2. *Site design.*

- a. Solar panels, structures, and electrical equipment, excluding fences and power lines for interconnection, shall be erected no less than fifty (50) feet from any lot line and no less than three hundred (300) feet from any residence, other than a residence on the same ownership parcel.
- b. No structures, excluding power lines for interconnection, may exceed fifteen (15) feet in height. Power lines shall be placed underground to the maximum extent possible.
- c. Lighting must comply with § 16.60.020 (Exterior Lighting).
- d. Solar panels shall have a surface that minimizes glare and shall comply with §16.60.040D. (Lighting and Glare).
- e. The facility shall be situated as to minimize impacts to woodlands, savannas, wetlands, drainage tiles, and encroachment into flood plains. All site development shall comply with the Stormwater Management Ordinance. Any damaged drainage tiles shall be repaired.
- f. In order prevent erosion, manage run-off, and provide ecological benefit, the facility shall be planted with "low-profile" native prairie species, using a mix appropriate for the region and soil conditions.
- g. Fencing shall be provided in compliance with the National Electrical Code, as applicable. The use of barbed wire must comply with § 16.56.050H.1.c. of this Ordinance
- h. Any part of the facility that is within five hundred (500) feet of a residence, other than a residence on the same ownership parcel, or road right-of-way, shall be landscaped with an arrangement of native shrubs, subject to approval by the County, unless the facility is screened from view by existing vegetation.
- i. Prior to construction, the operator shall prepare a landscape monitoring and maintenance plan to ensure the establishment and continued maintenance of the native prairie species, all installed landscape screening, and all existing vegetation that provides required landscape screening.
- j. Prior to construction, the operator shall enter into an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture (IDOA), as required by that department.

3. *Safety.*

- a. Prior to construction, the operator shall prepare an emergency management plan acceptable to the County and the local fire district and shall be responsible for training of emergency personnel, as needed.

- b. A sign shall be posted providing the name of the operator and a phone number to be used in case of an on-site emergency.
- c. Access shall be granted, provided appropriate advance notice, for periodic inspection of the site by the County or the local fire district.
- d. Damaged solar panels shall be removed, repaired, or replaced within sixty (60) days of the damage. The ground shall remain free of debris from damaged solar panels at all times.

4. *Abandonment.*

- a. The solar farm shall be considered abandoned if the operator fails to pay rent as specified

in the Agricultural Impact Mitigation Agreement, or it ceases to generate electricity for a period of twelve (12) consecutive months. Reports of electrical power production shall be provided to the County upon request. An abandoned solar farm must be decommissioned and removed within one hundred eighty (180) days from the time it is deemed abandoned. The operator may appeal in writing to the Zoning Enforcement Officer for an extension of time in order to remove the solar farm or to bring the solar farm back into operation.

5. *Decommissioning.* Decommissioning and removal of the solar farm shall be the responsibility of the operator upon abandonment or revocation of the conditional use permit. All operators, regardless of Agricultural Impact Mitigation Agreement, shall comply with the following:

- a. Prior to construction, the operator shall prepare a decommissioning plan which shows the final site conditions after the solar farm has been removed from the property. Decommissioning plans shall require removal of all solar panels, electrical equipment, poles, piles, foundations, and conduits (above and below ground). Access roads, fencing, groundcover, and landscaping may remain only if it can be shown to be consistent with the future use of the property.

- b. Prior to construction, the operator shall submit an engineer's estimate of cost for decommissioning the solar farm and restoring the site in accordance with the approved decommissioning plan. Upon review and approval by the Zoning Enforcement Officer of the estimate, the operator shall obtain a bond, letter of credit, or other form of surety acceptable to the County to be held by the Department of Planning and Development in the amount of one hundred fifty percent (150%) of the estimate, so as to cover the cost of decommissioning as well as inflation cost in future years. The value of the surety shall not be reduced based on the salvage value of any materials or equipment. If the operator has a separate surety under the terms of an AIMA, the sum total of all sureties are not required to exceed one hundred fifty percent (150%) of the estimate.

- c. During the operation of the facility, a new engineer's estimate of cost for decommissioning shall be submitted every ten (10) years to the Department of Planning and Development. Upon approval of the estimated costs by the Zoning Enforcement Officer, a revised surety shall be provided to the Department of Planning and Development in the amount of one hundred fifty percent (150%) of the new estimate. The value of the surety shall not be reduced based on the salvage value of any materials or equipment. If the operator has a separate surety under the terms of an AIMA, the sum total of all sureties are not required to exceed one hundred fifty percent (150%) of the estimate.

QQ. *Storage Yard.*

- 1. Storage yards shall be located on sites of a minimum of one (1) acre in area.
- 2. A storage yard shall be completely enclosed by a solid fence, a minimum of six (6) feet in height, with openings only for ingress and egress along all lot lines adjacent to property not zoned for industrial use.
- 3. Outdoor storage areas shall be paved.
- 4. All storage yards require site plan review. Storage areas shall be restricted to those areas so designated on the site plan.
- 5. Preparation, assembly, and processing of materials are prohibited.
- 6. Storage shall be limited to vehicles, equipment, and materials owned or leased by the property owner or tenant.
- 7. All vehicles stored on-site must have current plate registration.
- 8. Vehicle maintenance, including changing oil, is prohibited.
- 9. All structures utilized in conjunction with the storage yard must meet all applicable building codes for the occupancy category.
- 10. On-site retail sales are prohibited.

RR. *Towers and Antennas.*

- 1. *Class I and Class II.* Towers and antennas are divided into Class I and Class II types.

- a. *Class I.*

- (1) Class I tower is a tower that does not exceed seventy-five (75) feet in height.

- (2) A Class I antenna is an antenna attached to a structure that does not exceed the structure's height by more than fifteen (15) feet. However, any antenna attached to an existing tower structure, whether Class I or Class II, is considered a Class I antenna.

- b. *Class II.*

- (1) A Class II tower is a tower that exceeds seventy-five (75) feet in height.

- (2) A Class II antenna is an antenna attached to a structure, other than an existing tower structure, that exceeds the structure's height by more than fifteen (15) feet.

- 2. *Regulations for All Towers and Antennas.* The following standards apply to all towers and antennas:

- a. Towers shall either maintain a galvanized steel finish or, subject to any applicable Federal Aviation Administration (FAA) standard, be painted a color to reduce visual obtrusiveness, unless otherwise required by the FAA.
- b. If the proposed site is within a one-mile (1-mile) radius of an existing tower, applicants shall present clear and convincing evidence as to why co-location is not possible.
- c. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
- d. The plans of tower construction shall be certified by a State of Illinois registered structural engineer or registered architect.
- e. All towers shall meet the standards of the Federal Aviation Administration and Federal Communications Commission.
- f. Any structures constructed in association with the tower shall be compatible with the area in style and material.
- g. A landscape plan is required.
- h. All abandoned towers and associated facilities shall be removed within twelve (12) months of cessation of operations at the site. A copy of a signed lease that requires removal of the tower and associated facilities upon cessation of operation shall be submitted at the time of application for a building permit.
- i. Any tower, the height of which exceeds the distance from such tower to the lot or parcel property lines, shall be constructed to withstand a minimum wind load of forty (40) pounds per square foot and surface areas at a wind speed of one hundred (100) miles per hour. Construction of any commercially manufactured tower, seventy-five (75) feet in height or less, which meets or exceeds this requirement as indicated by the manufacturer's instructions, recommendations, and specifications will be considered to satisfy the provisions of this section.

- 3. *Standards for Class II Towers and Antennas.*

- a. Class II towers and antennas are preferred to be sited in non-residential zoning districts.
- b. Co-location of antennas on new and existing tower sites shall be considered before construction of additional single use towers.
- c. To the extent possible, towers and antennas shall be located in areas where adverse impact on the community is minimal.
- d. Configuration of towers and antennas shall be carefully designed, sited, landscaped, and screened in a way that minimizes the adverse impact through innovative camouflaging techniques.
- e. Potential damage to adjacent properties from tower failure shall be minimized through engineering design and careful siting of structures.

SS. *Towers and Antennas, Wireless Telecommunication.*

1. A wireless telecommunications tower or antenna is permitted in any zoning district except on a lot in a residential zoning district that is less than two (2) acres in size and is used for residential purposes, unless a variation is granted by the County Board in accordance with § 16.20.030 (Variation To Wireless Telecommunications Standards).
  2. When choosing a location, a telecommunications carrier shall consider the following:
    - a. A lot that is not in a residential zoning district is the most desirable location for a new tower if co-location is not possible.
    - b. A lot that is in a residential zoning district, but not used for residential purposes is the second most desirable location.
    - c. A lot that is in a residential zoning district, that is two (2) acres or more in size, and is used for residential purposes is the third most desirable location.
  3. A telecommunications carrier shall consider the following when locating a wireless telecommunications tower and its facilities on a site:
    - a. No tower or facilities should encroach onto any recorded easement prohibiting the encroachment unless the grantees of the easement have given their approval.
    - b. No tower or its facilities may encroach onto an existing septic field.
    - c. Any tower or its facilities located in a special flood hazard area or wetland shall meet the legal requirements for those lands.
    - d. Existing trees more than three (3) inches in diameter should be preserved if reasonably feasible during construction. If any tree more than three (3) inches in diameter is removed during construction, a tree three (3) inches or more in diameter of a native species shall be planted as a replacement, if reasonably feasible.
  4. The following design standards apply to all wireless telecommunications towers and antennas:
    - a. If any elevation of a tower or its facilities faces an existing contiguous residential use within a residential zoning district, low maintenance landscape shall be provided to screen the tower and its facilities. The quantity and type of that landscape shall be in accordance with any County landscape regulations of general applicability, except for tree preservation regulations above. Any facility adjacent to a lot in a residential zoning district shall be designed with exterior materials and colors that are reasonably compatible with the residential character of the area.
    - b. All towers shall meet the standards of the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC). Towers shall either maintain a galvanized steel finish or, subject to any applicable FAA standard, be painted a color to reduce visual obtrusiveness, unless otherwise required by the FAA.
    - c. Lighting on the tower and of facilities should be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting should be shielded so that no glare extends substantially beyond the boundaries.
    - d. Open fencing shall be installed around the facility to prevent unauthorized access. Fencing may include barbed wire when mounted at least six (6) feet above ground. Where appropriate, towers shall be equipped with an anti-climbing device.
    - e. The plans of tower construction shall be certified by a State of Illinois registered structural engineer or registered architect.
    - f. The improvements and equipment comprising the wireless telecommunications tower and antenna may be wholly or partly freestanding or wholly or partly attached to, enclosed in, or installed in or on a structure(s).
  5. The following siting standards apply to all wireless towers and antennas:
    - a. A tower and its facilities may be located on the same zoning lot as one (1) or more other structures or uses without violating any ordinance or regulation that prohibits or limits multiple structures, buildings, or uses on a zoning lot.
    - b. No minimum lot area, width, or depth is required. Unless the tower is to be manned on a regular daily basis, no off-street parking spaces are required. If the facility is manned on a regular daily basis, then one (1) off-street parking space is required for each employee regularly at the site. No loading facilities are required.
    - c. The following setbacks apply:
      - (1) All supporting structures or equipment housing shall be a minimum of fifteen (15) feet from the front lot line and ten (10) feet from any other lot line.
      - (2) If the facility is located in a residential zoning district, the set back from the lot line to the nearest lot in a residential zoning district shall be at least fifty percent (50%) of the height of the facility's supporting structure.
      - (3) If the facility is located in a non-residential zoning district, the horizontal separation distance to the nearest principal residential building shall be at least equal to the height of the facility's supporting structure.
    - d. No bulk regulations or lot coverage, building coverage, or floor area ratio limitations apply. However, unless a height variation is granted by the County Board, the height of the facility cannot exceed seventy-five (75) feet if the facility is located in a residential zoning district, or two hundred (200) feet if the facility is located in a non-residential zoning district. However, the height of a facility may exceed the height limit in this subsection SS.5.d., and no height variation required, if the supporting structure is a qualifying structure.
  6. All abandoned towers and associated facilities shall be removed within twelve (12) months of cessation of operations at the site. A copy of a signed lease that requires removal of the tower and associated facilities upon cessation of operation shall be submitted at the time of application for a building permit.
  7. Approval processes for wireless telecommunications is subject to the following:
    - a. The County's review of a building permit application for a wireless telecommunications tower or antenna shall be completed within thirty (30) calendar days. If a decision of the County Board is required to permit the establishment of a facility, the County's review of the application shall be simultaneous with the process leading to the County Board's decision.
    - b. Any public hearing authorized under this section shall be conducted in the manner determined by the County Board (see §16.20.030 Variation to Wireless Telecommunications Standards).

Notice of such public hearing shall be published at least fifteen (15) calendar days before the hearing in a newspaper of general circulation published in the County by the applicant in conformance with the requirements of this Ordinance.
    - c. Any decision regarding a facility by the County Board or a County agency or official shall be supported by written findings of fact. The circuit court has jurisdiction to review the reasonableness of any adverse decision and the plaintiff bears the burden of proof, but there is no presumption of the validity of the decision.
- TT. *Wind Energy Systems.* Application for a commercial wind energy facility shall include an agricultural impact mitigation agreement from the Illinois Department of Agriculture as required under the Wind Energy Facilities Agricultural Impact Mitigation Act (505 ILCS 147/).

1. *Required Setbacks.*

- a. A wind energy system (WES) that is used exclusively by the end user shall be set back a minimum of one hundred ten percent (110%) of the system height from all property lines of nonparticipating properties and public rights-of-way. A wind energy system (WES) that is not used exclusively by the end user shall be set back a minimum of two hundred twenty percent (220%) of the system height from all property lines of nonparticipating properties and public rights-of-way. The required setback may only be reduced by a variation. As part of the conditional use permit approval, additional setback may be required when the system is not used exclusively by the end user.
  - b. A wind energy system shall meet any additional setback requirements established by the Federal Aviation Administration (FAA) for the protection of existing aircraft takeoff and landing areas.
2. *Required Letter of Non-Objection.* A wind energy system shall obtain a letter of non-objection from all municipalities within one and one-half (1½) miles of the system. The County cannot approve a wind energy system if any municipality within one and one-half (1½) miles of the system objects, based on the provisions of the Illinois Municipal Code (65 ILCS 5/11-13-26).
3. *Appearance.*
- a. The turbine, tower, and blades shall be uniform in style and finished in an unobtrusive neutral color, such as off-white, light grey, etc. However, the blade components of a WES may be of a dark color to aid in de-icing.
  - b. The required coloration and finish shall be maintained throughout the life of the system.

c. Except for required warnings, and tower identification and system manufacturer and system operator identification, no lettering, advertising, or graphics on the WES is permitted.

d. Any attachments to the WES shall serve a critical operational function and be as inconspicuous as function allows or approved as part of a conditional use permit.

#### 4. *Guy Wires.*

a. Guy wires are prohibited in residential zoning districts.

b. Except for temporary meteorological towers, guy wires are prohibited on towers greater than one hundred twenty (120) feet in height.

c. Guy wires shall be equipped with bird flight diverters or high visibility markings.

#### 5. *Shadow Flicker Requirements.*

a. WESs shall be sited such that shadow flicker will not fall on any window of any habitable building of any nonparticipating property within five hundred (500) feet for more than fifteen (15) minutes per day, unless the applicant commits to a schedule for turning off the offending WES during these periods.

b. New habitable buildings or new windows on existing habitable buildings affected by shadow flicker shall not restrict the operation of a WES or necessitate an alteration to a WES operation schedule, if they are constructed after the WES has obtained all required permits for operation and construction.

c. The following additional standards apply to mid-size and large wind energy systems:

(1) The applicant shall show calculated locations of shadow flicker caused by the proposed WESs and the expected duration in total number of hours per year of the flicker on nonparticipating properties within one-half (½) mile.

(2) The proposed WESs shall not produce shadow flicker that falls on or within fifty (50) feet of any habitable building on any nonparticipating property for more than fifty (50) hours a year.

(3) The applicant may commit to a schedule for stopping the rotation of mid-size and large WES turbines so that shadow flicker will not fall on or within fifty (50) feet of any habitable building on any nonparticipating property for more than fifty (50) hours a year.

6. *Sun Glint.* The finish of WES shall be flat or matte and non-reflective to reduce the incidence of sun-glint.

7. *Ice Throw.* Large, micro, and mid-size WESs shall employ preventive measures to eliminate any deleterious effects of ice throw in compliance with the specifications contained in the Germanischer Lloyd – Guideline for the Certification of Wind Turbines (Section 2.3.2.18 in the 2003 edition and as amended from time to time).

8. *Control and Braking Systems.* In order to limit blade rotation in extremely high winds and to allow for manufacturer and industry recommended maintenance activities, WES shall meet the following:

a. Horizontal WESs shall be equipped with an over-speed control (i.e., variable pitch control or passive stall control) and a braking system.

b. Vertical WESs shall be equipped with a braking system or other physical restraint.

#### 9. *Noise and Vibration.*

a. WESs shall utilize commercially available and reasonable sound-attenuation measures to minimize potential noise impacts for surrounding and nearby properties.

b. The sound level from a WES shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations.

c. The applicant shall submit manufacturer's certification, or other data acceptable to the Zoning Enforcement Officer, documenting that the WES complies with IPCB standards. If a noise violation occurs, the WES shall cease operation until the violation has been satisfactorily resolved.

d. The following additional standards apply to mid-size and large wind energy systems:

(1) Prior to conditional use permit approval, the applicant shall submit a sound propagation model or analysis conducted by, or supervised by, an acoustics specialist certified by the Institute of Noise Control Engineering documenting that the WES will operate within the IPCB standards referenced in this section.

(2) Prior to being issued a certificate of completion, the applicant shall submit a field test conducted by, or supervised by, an acoustics specialist certified by the Institute of Noise Control Engineering documenting that the WES operates within the IPCB standards referenced in this section.

(3) The Planning and Development Committee may authorize, no more than once a year, a field test to be conducted by, or supervised by, an acoustics specialist certified by the Institute of Noise Control Engineering. If the test has determined that a violation of IPCB noise regulations is occurring or has occurred, the responsible party shall cease operation until the violation has been satisfactorily resolved. The responsible party shall reimburse the County for the cost of each test conducted on a large wind energy system. The responsible party shall reimburse the County for the cost of a test conducted on a mid-size wind energy system if the test identifies a violation of IPCB noise regulations.

10. *Signal Interference.* WESs shall not cause degradation of electromagnetic signal transmissions or otherwise be in violation of Federal Communication Commission (FCC) laws regarding electromagnetic signal interference.

#### 11. *Lighting.*

a. Tower lighting shall conform to all applicable FAA regulations, but shall use the least intrusive amount of lighting as possible. Flashing lights may be required by FAA regulations. Such lighting, if required in multiple WES installations, shall be timed to activate at intervals that are in unison rather than random.

b. The WES shall not be artificially lit, except as required by FAA or as necessary for workers involved in maintenance or repairs. Spotlights are prohibited to illuminate the tower or turbine from the ground or the tower.

c. Any lighting not required by the FAA shall be hooded and directed so as to minimize horizontal and skyward illumination.

#### 12. *Natural Resources and Wildlife Protection and Impact Mitigation.*

a. The applicant shall employ the appropriate Best Management Practices as presented in Appendix C to protect and mitigate adverse impacts to natural resources, wildlife, and wildlife habitat. For mid-size and large wind energy systems, the Illinois Department of Natural Resources shall be consulted with reference to the State's Endangered Species Consultation Program and the Illinois Natural Areas Preservation Act (520 ILCS 10/11 and 525 ILCS 30/17). The purpose of the consultation is to provide the best available information for mitigation of any potential adverse impacts to wildlife and habitat.

b. For proposed WESs located within five hundred (500) feet of a McHenry County Conservation District (MCCD) property, the applicant shall provide written documentation that MCCD has been notified of the proposed project. The purpose of the notification is to allow MCCD the opportunity to work with the applicant to mitigate any potential wildlife impacts. However, any resultant comments or objections from the MCCD does not preclude County authority to issue any building permit.

13. *Fire Risk.* WESs shall comply with all applicable electrical codes and standards and shall remove potential fuel sources, such as vegetation, flammable liquids, or other combustible materials from the immediate vicinity of electrical equipment and connection points.

#### 14. *Grid Connections.*

a. All electrical interconnections to the grid shall conform to the current adopted National Electrical Code.

b. Prior to issuance of a building permit, applications for Grid-Connected WES shall include a copy of an approved interconnection agreement with the local utility or a letter from the local utility indicating that an interconnection agreement is not required.

15. *Ancillary Facilities.* Ancillary facilities shall meet all applicable zoning and permit requirements.

#### 16. *Meteorological Studies and Towers.*

a. Meteorological towers may be installed for the sole purpose of collecting wind generation data subject to obtaining building permits.

b. Meteorological towers shall be located no less than one-quarter (¼) mile apart.

c. Meteorological towers shall be decommissioned within three (3) years of installation.

d. Meteorological towers may use guy wires regardless of height or zoning district. Guy wires shall be equipped with bird diverters or high visibility markings.

17. *Road Use and Maintenance Agreements.* For mid-size and large wind energy systems, the applicant shall provide a properly executed road use and maintenance agreement with each highway or roadway authority having jurisdiction over potentially impacted highways, roads, or streets related to the transport and construction of WES. Such executed agreements shall be submitted prior to issuance of a permit for WES.

18. *Decommissioning.*

a. The following additional standards apply to the decommissioning of mid-size and large wind energy systems and to the decommissioning of micro wind energy systems located in the commercial zoning districts and in the office and industrial zoning districts.

(1) The applicant shall provide written acknowledgement of their responsibility to decommission a non-operational WES.

(2) If any WES is not in operational condition for one hundred eighty (180) consecutive days or longer, the Zoning Enforcement Officer may deem it non-operational and decommissioning shall commence within ninety (90) days of the Zoning Enforcement Officer determination.

(3) Once a WES has been deemed non-operational by the Zoning Enforcement Officer its components, including the first four (4) feet of the foundation below grade, shall be disassembled and removed from the premises within ninety (90) days. Upon removal, the site shall be restored to its original preconstruction condition, unless relevant regulations governing the property have changed subsequent to the original installation.

(4) The responsible party for a non-operational WES may appeal in writing to the Zoning Enforcement Officer for an extension of time in order to bring a non-operational WES back into safe operation. If the extension of time is denied, the responsible party may file an appeal with the Zoning Board of Appeals.

(5) The responsible party shall notify the local utility whenever a WES will be non-operational or decommissioned.

b. The following additional standards apply to the decommissioning of mid-size and large wind energy systems:

(1) An estimate of the decommissioning costs certified by a professional engineer, to be updated every five (5) years from the date of permit issuance.

(2) Financial assurance, posted in cash, escrow account, surety bond, or irrevocable letter of credit secured by the responsible party for the purpose of adequately performing decommissioning in an amount equal to one hundred fifty percent (150%) of the professional engineer's certified estimate of the decommissioning costs without reducing said amount for salvage value. The financial assurance shall include:

(a) Identification of and procedures for access to financial assurances.

(b) A provision that the terms of the decommissioning plan are binding upon the responsible party and any of their successors, assigns, or heirs.

(c) A provision that the County will have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

(3) Decommissioning methods should minimize new site disturbance and removal of native vegetation, to the greatest extent practicable.

(4) Foundations shall be removed to a depth of four (4) feet below surrounding grade, and covered with soil.

(5) If topsoils are removed during decommissioning, they shall be stockpiled and used as topsoil when restoring plant communities. Once decommissioning activity is complete, topsoils shall be restored.

(6) Soil shall be stabilized and re-vegetated with plants appropriate for the soil conditions and adjacent habitat.

(7) Surface water flows shall be restored to pre-disturbance conditions, including removal of stream crossings, roads, and pads, consistent with the Stormwater Management Ordinance.

(8) Overhead lines and poles that are no longer needed shall be removed.

(9) After decommissioning, erosion control measures should be installed in all disturbance areas where potential for erosion exists, consistent with the Stormwater Management Ordinance.

(10) Fencing shall be removed unless the owner will be utilizing the fence.

(11) Petroleum product leaks and chemical releases shall be remediated.

19. *Variations.* Variations may be requested from any requirement of this section except for regulations relating to noise and vibrations, regulations of height that would affect how the WES is categorized under this Ordinance, and any federal or state requirement.

UU. *Winery, Brewery or Distillery.* A winery, brewery, or distillery requires the appropriate liquor license prior to commencing operations.

VV. *Vacation Rental.* Dwelling units, or portions thereof, that are offered as vacation rentals for more than twelve (12) rentals per calendar year or more than ninety (90) days per calendar year shall obtain a conditional use permit prior to occupancy.

WW. *Agricultural Produce Processing.*

1. Agricultural produce processing facilities shall satisfy all requirements of the McHenry County Health Ordinance and applicable building codes.

2. The gross floor area of the facility, excluding storage areas, shall not exceed ten thousand (10,000) square feet.

XX. *Boarding House.*

1. Occupancy shall be limited to not more than eight (8) unrelated adults.

2. The facility shall comply with McHenry County Health Regulations for food preparation and service, water supply, and sewage disposal.

3. One (1) off-street parking space shall be provided for each housekeeping unit, or every two (2) adult residents, whichever is greater. A maximum of two (2) off-street parking spaces may be located within an effective street yard unless located a minimum of fifty (50) feet from the street lot line.

YY. *Group Home.*

1. The facility shall meet all applicable building codes and the Illinois Accessibility Code.

2. The facility shall comply with McHenry County Health Regulations for food preparation and service, water supply, and sewage disposal.

3. Medical detoxification services to manage the acute physical symptoms of withdrawal from drug use shall not be provided on-site. (See RESIDENTIAL CARE FACILITY.)

4. Any facility occupied by six (6) or more residents, including live-in care providers, live-in staff members, and residents, shall comply with the following requirements:

a. A conditional use permit is required in the agricultural and residential zoning districts, with the exception of the R-3 Multifamily District, where it is permitted by-right.

b. In order to provide the occupants of group homes the opportunity to be integrated into the community rather than living in neighborhoods with concentrations of group homes, no proposed group home occupied by six (6) or more persons is permitted within one thousand three hundred sixty (1,360) feet of an existing group home occupied by six (6) or more persons. The location distances shall be measured by drawing a line between the closest property line of the proposed group home and the nearest property line of existing group homes, including group homes within municipalities and adjacent counties, following existing streets and roads.

c. Except in the R-3 Multifamily District, the maximum occupancy of the facility, including live-in care providers, live-in staff members, and residents, shall be determined based on factors including, but not limited to, the size of the property and the size of the structure to be utilized and shall be included as a condition of the conditional use permit.

d. Prior to commencing operations, or at the earliest date possible, the facility shall obtain and maintain any applicable state, federal, or local licenses required for their operation. If no state, federal, or local license is required or available, the facility shall obtain at the earliest date possible accreditation with the Commission for the Accreditation of Rehabilitation Facilities, the Joint Commission, or another agency approved by the Zoning Enforcement Officer. Licensure or accreditation must be in effect and maintained in good standing at all times.

e. The operator shall prohibit occupancy of the facility by current users of illegal controlled substances and convicted sex offenders.

f. The facility shall provide one (1) off-street parking space for every two (2) residents, including live-in care providers and live-in staff members. A maximum of two (2) off-

street parking spaces may be located within an effective street yard unless located a minimum of fifty (50) feet from the street lot line. Accessible parking shall be provided as required by the Illinois Accessibility Code.

5. *Reasonable Accommodation.*

a. Any person seeking to operate a facility that will serve persons with disabilities may apply for relief from any provision of this Ordinance that poses a barrier to equal access to housing in accordance with federal fair housing law. No application fee is required to request a reasonable accommodation.

b. A written request for a reasonable accommodation shall be filed with the Zoning Enforcement Officer. The request shall identify: 1) the specific ordinance provision from which the reasonable accommodation is being requested; 2) the specific exception or modification being requested; and 3) documentation that the specific exception or modification requested is necessary to provide individuals with a disability an equal opportunity to use and enjoy the residence.

c. The Zoning Enforcement Officer shall review the request for reasonable accommodation with the McHenry County State's Attorney Office and shall issue a determination within 30 days.

d. Any determination of the Zoning Enforcement Officer to deny a request for reasonable accommodation may be appealed to the Zoning Board of Appeals in accordance with § 16.20.090 (Zoning Appeal). The County shall waive all filing and processing fees for zoning appeals related to the denial of a request for reasonable accommodation.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 14.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018; Ord. O-201911-ZBA-057, passed 11-19-2019)

**§ 16.56.040 TEMPORARY USE STANDARDS.**

A temporary use permit (see § 16.20.100, Temporary Use Permit) is required for temporary uses. Such permits are issued in accordance with the procedures established in § 16.20.100D. and the standards established in § 16.20.100E. The Zoning Enforcement Officer may issue a temporary use permit so long as the proposed use complies with the requirements of this section and is permitted in the zoning district. Events sponsored by public agencies do not require a temporary use permit. Private events conducted on public property or in public facilities do not require a temporary use permit provided the event has been approved by the agency that owns the property or facility.

Fairgrounds recognized under the Agricultural Fair Act (30 ILCS 120/) are exempt from obtaining temporary use permits so long as all temporary use permit standards are met. Additionally, said fairgrounds are exempt from limits on the number or duration of temporary use events.

A. *Temporary Agritourism Event.*

1. Except in the commercial, office, and industrial zoning districts, temporary agritourism events must be incidental to and directly supportive of a main agricultural use of the property and shall not negatively impact agricultural operations of neighboring properties.

2. All areas open to the public, including sales areas, seating areas, and activities and entertainment areas, must be located a minimum of fifty (50) feet from any lot line.

3. An off-street parking area is required. Such area does not need to be paved.

4. Temporary agritourism events are limited to four (4) events per calendar year, with a minimum of four (4) days between events, and a maximum duration of three (3) days per event. However, one of the four (4) events may have a sixty-day (60-day) permit duration on sites having agricultural operations with seasonal crop sales such as Christmas tree farms, pumpkin patches, apple orchards, and other U-pick operations.

5. All structures open to the public must meet applicable building code requirements, except:

a. The entire ground floor of any barn constructed before 1940 may be used for any agritourism purpose, as long as the use of the structure is approved by the applicable fire district.

b. Farmstands that meet the standards of § 16.56.030R. (Farmstand).

c. Agritourism gift shops that are limited to outdoor, temporary tents, purpose-built structures not more than one thousand (1,000) square feet in area and not more than seventeen (17) feet in height, or agriculture exempt buildings. If an agritourism gift shop is operated in a structure originally built for agricultural purposes, the agritourism gift shop portion of the building may not exceed one thousand (1,000) square feet. The agritourism gift shop use shall be limited to the ground floor.

6. Farmstands and agritourism gift shops that do not meet the standards above are permitted, provided they meet applicable building code requirements.

7. Toilet and sanitary facilities must be provided in accordance with the McHenry County Public Health Ordinance and Illinois State Plumbing Code.

8. Food and beverage services must be provided in accordance with the McHenry County Public Health Ordinance.

B. *Temporary Contractor's Office.* A temporary use permit may be issued for a contractor's temporary office and equipment shed incidental to a construction project. No sleeping or cooking accommodations are permitted. The permit is valid for a maximum of one (1) year, but may be renewed.

C. *Temporary Emergency Residence.* In the event of a fire or natural disaster that results in the partial or total demolition of any residence making it unfit for human habitation, the Zoning Enforcement Officer may, upon application from the owner of such residence, issue a temporary use permit for the use of a recreational vehicle or mobile home for each family during rehabilitation of the original residence or construction of a new residence, subject to the following conditions:

1. The mobile home shall be placed on the lot of the damaged or destroyed home.

2. Water and sanitary facilities shall be provided in accordance with the Public Health Ordinance.

3. The permit is valid for a maximum of twelve (12) months, but in the event of circumstances beyond the control of the owner, the Zoning Enforcement Officer may extend the permit for a period or periods not to exceed sixty (60) days.

4. The trailer or mobile home shall be removed from the property following completion of the new or rehabilitated residence.

5. The applicant gives express consent and authorizes the County to remove the temporary shelter at the expense of the applicant upon termination of permit, if not removed during the specified time frame.

D. *Temporary Entertainment Events.*

1. A management plan is required as part of the temporary use permit application that demonstrates the following:

a. The on-site presence of a manager during the event.

b. General layout of performance areas, visitor facilities, such as seating areas and restrooms, and all ingress and egress points to the site.

c. Provision for recycling and waste removal.

d. The days and hours of operation, including set-up and take-down times.

e. A description of crowd control and security measures with security personnel provided by an Illinois-licensed security contractor agency licensed by the State of Illinois Department of Financial and Professional Regulations to provide such security services, or by the Sheriff's Department.

2. Temporary entertainment events are limited to three (3) events per calendar year, with a minimum of four (4) days between events, and a maximum duration of three (3) days per event, in any district except for residential zoning districts, which are limited to one (1) event with a maximum duration of one (1) day.

3. Any permanent structures utilized during the event must meet all building code requirements for the proposed occupancy.

4. All sales areas, seating areas, activities, performance, and event areas, and parking areas must be located a minimum of fifty (50) feet from any lot line.

5. All speakers for public address system and amplified music must be located a minimum of fifty (50) feet from any lot line and directed towards the interior of the property.

6. The following temporary entertainment event activities are prohibited outside the hours specified:

a. Outdoor motor sports: 9:00 a.m. to 10:00 p.m.

b. Outdoor amplified music or speech: Sunday through Thursday, 7:00 a.m. to 9:00 p.m.; Friday and Saturday, 7:00 a.m. to 11:00 p.m.

7. Camping is permitted as a part of a temporary entertainment event subject to the following additional standards:
  - a. Camping is limited to a total of six (6) days per calendar year.
  - b. The location and name of each campsite, as well as a vehicular access route to each, must be shown on the site plan. Campsites must be set back at least one hundred (100) feet from lot lines and no closer than three hundred (300) feet to any residence on an adjoining property.
  - c. No campsite may be located farther than three hundred (300) feet from the nearest toilet facility.
  - d. If showers are made available to campers, the number of campers allowed under the temporary use permit will be limited by septic system capacity, as determined by the Health Department.
  - e. Campfire and bonfire locations must be shown on the site plan but will be allowed only if there is no objection by the fire department having jurisdiction.

E. *Temporary Farmers Market.*

1. Except in the commercial, office, and industrial zoning districts, temporary farmers market events must be incidental to and directly supportive of a main agricultural use of the property and shall not negatively impact agricultural operations of neighboring properties.
2. All areas open to the public, including sales areas, seating areas and, activities and entertainment areas, must be located a minimum of fifty (50) feet from any lot line.
3. An off-street parking area is required. Such area does not need to be paved.
4. Temporary Farmers Markets are limited to one (1) two-day (2-day) event per week during the period from April 1 to October 31.
5. All structures open to the public, except Farmstands that meet the standards of § 16.56.030R. (Farmstand), must meet applicable building code requirements. Farmstands that do not meet the standards of § 16.56.030R. (Farmstand) are permitted, provided they meet applicable building code requirements.
6. Toilet and sanitary facilities must be provided in accordance with the McHenry County Public Health Ordinance and Illinois State Plumbing Code.
7. Food and beverage services must be provided in accordance with the McHenry County Public Health Ordinance.

F. *Temporary Fireworks Display.*

1. A temporary use permit may be issued for either a consumer fireworks display or a pyrotechnic display or service in accordance with the Fireworks Use Act (425 ILCS 35/), which further states that no permit is required for supervised public displays by county fair associations.
2. All temporary fireworks permits shall meet the following standards and conditions:
  - a. Application authorizes McHenry County and the local fire district permission to enter the property to perform an inspection prior to the date of the display, to ensure the display shall not be hazardous to property or endanger any persons.
  - b. After a permit has been granted, sales, possession, use, and distribution of consumer fireworks for display shall be lawful for that purpose only. No permit granted shall be transferable.
  - c. Applications must be approved by the local fire district chief, in accordance with Office of the State Fire Marshal standards.
3. Consumer fireworks displays shall meet the additional following standards and conditions:
  - a. The consumer fireworks operator must be at least 18 years of age and provide proof of training by the local fire district, in accordance with Office of the State Fire Marshal standards. He/she will be responsible for the safety, setup, and discharge of the consumer fireworks display.
4. Pyrotechnic displays or services shall meet the additional following standards and conditions:
  - a. The lead pyrotechnic operator must be at least 21 years of age and provide a copy of his/her lead pyrotechnic operator license, per the Fireworks Use Act and the Pyrotechnic Distribution and Operating License Act (425 ILCS 35/ and 225 ILCS 227/). He/she will be responsible for the safety, setup, and discharge of the pyrotechnic display or service.
  - b. Applications shall identify the licensed pyrotechnic distributor or licensed production company.
  - c. Applications shall identify the diameter of the largest mortar to be displayed, if applicable.
  - d. A site plan shall be provided that identifies the area of pyrotechnic display or service, spectator distance, and emergency vehicle access.
  - e. If indoors, the building shall have a sprinkler system and be of an appropriate commercial design.
  - f. Provide proof of liability insurance in a sum not less than \$1,000,000, naming McHenry County as additionally insured.

G. *Temporary Homeless/Domestic Violence Shelter.*

1. A management plan is required as part of the temporary use permit application that demonstrates the following:
  - a. The on-site presence of a manager during hours of operation who shall direct the operations of all staff and volunteers.
  - b. An established set of operating rules addressing the governance of the facility including hours of operation, maintenance, and security requirements.
  - c. The days and hours of operation, including set-up and take-down times.
2. Facilities are permitted to operate a maximum of fifty-two (52) nights per calendar year.
3. All structures utilized as Temporary Homeless/Domestic Violence Shelters must meet all building code requirements for the proposed occupancy.

H. *Temporary Portable Asphalt/Concrete Batch Plant.* A temporary use permit may be issued for portable asphalt/concrete batch plant for use in road construction and repair. The permit is valid for a maximum of twelve (12) months, but may be renewed for one (1) or more twelve-month (12-month) period(s).

1. A portable asphalt/concrete batch plant shall develop and implement a Spill Prevention Containment and Control Plan in order to protect surface and groundwater from contamination.

I. *Temporary Real Estate Project Sales Office.* A temporary use permit may be issued for a temporary real estate office in any new subdivision approved by the County Board. No sleeping or cooking accommodations are permitted. The permit is valid for a maximum of one (1) year, but is renewable.

J. *Temporary Sales Event.*

1. A management plan is required as part of the temporary use permit application that demonstrates the following:
  - a. The on-site presence of a manager during hours of operation who shall direct the operations of all vendors participating in the event.
  - b. An established set of operating rules addressing the governance structure of the event, hours of operation, maintenance, and security requirements.
  - c. General layout of vendor stalls, visitor facilities, such as seating areas and restrooms, and all ingress and egress points to the site.
  - d. Provision for recycling and waste removal.
  - e. The days and hours of operation, including vendor set-up and take-down times.
2. Properties located in the commercial, office, or industrial zoning districts are limited to six (6) temporary sales events per calendar year with a maximum duration of seven (7) days per event. However, Christmas tree sales lots are permitted a single temporary use permit for a maximum duration of thirty-five (35) days per calendar year. Properties located in all other zoning districts are limited to six (6) temporary sales event per calendar year with a maximum duration of four (4) days per event.
3. Any permanent structures utilized during the event must meet all building code requirements for the proposed occupancy.
4. Camping is permitted as a part of a temporary sales event subject to the following additional standards:

- a. Camping is limited to a total of six (6) days per calendar year.
  - b. The location and name of each campsite, as well as a vehicular access route to each, must be shown on the site plan. Campsites must be set back at least one hundred (100) feet from lot lines and no closer than three hundred (300) feet to any residence on an adjoining property.
  - c. No campsite may be located farther than three hundred (300) feet from the nearest toilet facility.
  - d. If showers are made available to campers, the number of campers allowed under the temporary use permit will be limited by septic system capacity, as determined by the Health Department.
  - e. Campfire and bonfire locations must be shown on the site plan but will be allowed only if there is no objection by the fire department having jurisdiction.
- (Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 14.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.56.050 ACCESSORY STRUCTURE AND USE STANDARDS.**

All accessory structures and uses are subject to the requirements of this section and the requirements of §16.60.030 (Permitted Encroachments).

A. *Accessory Structures - General Regulations.* Except as otherwise expressly provided in this Ordinance, accessory structures and uses shall be allowed in connection with any lawfully established principal structure or principal use. All accessory structures are subject to the following regulations, in addition to any other regulations within this section and this Ordinance.

1. *Standards for All Accessory Structures.*

- a. No accessory structure may be used as a dwelling unit, unless permitted as an ancillary dwelling unit in accordance with § 16.56.030O.
- b. No accessory structure may be constructed prior to construction of the principal building to which it is accessory, unless otherwise provided for in this Ordinance. This limitation does not apply to agriculture exempt structures or open fences.
- c. An accessory structure is allowed on a lot or parcel without a principal structure, in whole or in part, only when the two lots or parcels are either abutting or directly across a public right-of-way from one another, and one of the following are met:
  - (1) A deed restriction has been recorded stating that the two lots or parcels shall not be sold separately unless the accessory structure is first removed from the property.
  - (2) The septic system for the principal structure is located on the lot or parcel without a principal structure.
- d. Accessory structures shall be located a minimum of ten (10) feet from any lot line, unless otherwise specified by this Ordinance. Accessory structures have reduced setbacks in the Legacy Neighborhood Overlay District (see § 16.52.040), waterfront lots (see § 16.60.010C.), and on nonconforming lots (see § 16.80.050). For fences, see subsection H. below (Fences). Increased setbacks in Table 16.48-1: Office and Industrial Zoning Districts Bulk and Setback Regulations also apply to accessory structures in those districts.
- e. Accessory structures are prohibited in an effective street yard, unless located a minimum of fifty (50) feet from the street lot line or as allowed under Table 16.60-1: Permitted Encroachments, subsection H. below (Fences), or § 16.60.010C. (Required Setbacks). If no principal structure exists on the lot or parcel, and the standards of subsection A.1.c. above are met, the setback from the street lot line shall be based on Table 16.36-1: Zoning Districts Bulk and Setback Regulations.

2. *Standards for Detached Accessory Structures.*

- a. Detached accessory building heights are measured to the highest point of the structure. Unless otherwise permitted or limited by this Ordinance, the following height restrictions apply to detached accessory structures.
  - (1) In the E-1, E-2, E-3, and E-5 zoning districts, commercial zoning districts, and the office and industrial zoning districts, detached accessory structures are limited to twenty (20) feet in height.
  - (2) In the R-1, R-2, and R-3 Districts, detached accessory structures are limited to fourteen (14) feet in height for a flat or mansard roof design, and eighteen (18) feet in height for a pitched roof design.
  - (3) In the Agricultural Districts, on parcels less than five (5) acres, detached accessory structures are limited to twenty-four (24) feet in height.
  - (4) In the Agricultural Districts, on parcels five (5) acres or larger, there is no height limitation for detached accessory structures.
  - (5) In all zoning districts, except the R-1, R-2, and R-3 Districts, there is no height limitation for detached accessory structures that are converted from existing legally constructed agricultural exempt structures, when such conversion does not increase the height of the structure.

3. *Standards for Attached Accessory Structures.*

- a. Attached accessory structures are exempt from height limitations, per § 16.60.010F.2.I., but shall not exceed the height of the principal building to which they are attached nor have a finished floor more than two (2) feet above the highest habitable finished floor of the principal building.

B. *Amateur Radio Equipment and Towers.*

- 1. Towers that solely support amateur radio equipment are permitted in the rear yard.
- 2. In residential zoning districts, towers shall be located at least a distance of ten (10) feet from all lot lines or a distance equal to twenty percent (20%) of the lot street frontage from all lot lines, whichever is greater. In all other zoning districts, towers must be located at least 10 feet from all lot lines.
- 3. Towers cannot exceed seventy-five (75) feet in height, unless a taller tower is technically necessary to engage successfully in effective amateur radio communications in accordance with in subsection B.8. below.
- 4. As part of the application, the applicant must submit a site plan showing the proposed location of the tower, as well as its relation to the principal building and any additional accessory structures.
- 5. Towers shall be constructed in accordance with the written specifications of the tower manufacturer and County building codes.
- 6. If amateur radio equipment is to be operated remotely, then the tower supporting the equipment may be located on a parcel without a principal structure or use.
- 7. Amateur radio towers are exempt from all classification, regulations, and standards provisions of §16.56.030RR. (Towers and Antennas).
- 8. If effective communications cannot be obtained when in compliance with the limitations as listed in subsections B.1. through B.3. above, the Zoning Enforcement Officer may permit a waiver from the height and location requirements of this section, based on the following procedure:
  - a. The applicant shall pay any fee established by the County Board and shall submit a waiver request that shall:
    - (1) Provide technical evidence in the form of a report from a professional engineer knowledgeable in radio frequency propagation analysis that effective communications cannot be obtained when in compliance with the limitations listed in subsections B.1. through 14.5.B.3. above.
    - (2) Document the minimum reasonable accommodation, in the form of a waiver from these regulations, required in order to permit effective communications.
  - b. The Zoning Enforcement Officer shall notify adjacent property owners of the waiver request and of their right to file a written objection.
  - c. If any noticed property owner files a written objection to the waiver within fifteen (15) calendar days of receipt of such notice, the property owner may apply for a Zoning Variation to be considered by the Hearing Officer or Zoning Board of Appeals.
  - d. If no written objections have been received within fifteen (15) calendar days of receipt of such notice, the Zoning Enforcement Officer may issue a decision.
  - e. The decision of the Zoning Enforcement Officer shall be issued in the form of a Notice of Decision and include written findings.
  - f. If a waiver of the height limit is granted, the tower shall be set back from adjacent property lines by a distance established by the Zoning Enforcement Officer but in no case shall the additional setback be greater than one (1) foot for each additional two (2) feet of tower height.



C. *Apiaries (Non-Agriculture Exempt).*

1. In compliance with the Illinois Bees and Apiaries Act (510 ILCS 201/), every person keeping bees shall register with the Illinois Department of Agriculture.
2. All bee colonies shall be kept in a removable frame hive, which shall be kept in sound and usable condition.
3. Where any colony is situated within twenty-five (25) feet of a property line, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a dense vegetation, fence, solid wall, or combination thereof that is parallel to the property line and extends ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary.
4. Each beekeeper shall provide that a convenient source of water is available to the bees at all times during the year.
5. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, the beekeeper must promptly re-queen the colony.
6. All hives shall be located to meet required setbacks for accessory structures, unless screening is provided along the property line or unless the adjacent property is vacant.

D. *Chicken Coops and Chicken Runs (Non-Agriculture Exempt).*

1. No person may keep more than six (6) chickens on any property at one time.
2. No commercial activity will result from the keeping of chickens on the property.
3. Roosters are not permitted. However, if the gender of a chick cannot be determined at hatching, a chick of either gender may be kept on the property for no more than six (6) months.
4. Chickens shall be kept in coops and fenced runs at all times. Chickens shall be kept in coops from dusk to dawn.
5. Chicken coops and runs shall meet the following standards:
  - a. Chicken coops and runs shall be kept in the effective rear yard and shall be located at least ten (10) feet from any lot line and ten (10) feet from any other structure.
  - b. The facility shall be kept in good repair, maintained in a clean and sanitary condition, and free of vermin, obnoxious smells, and substances. The facility shall not create a nuisance or disturb neighboring residents due to noise, odor, damage, or threats to public health.
  - c. The chicken coop and run shall be designed to ensure the health and well-being of the animal is not endangered by the manner of keeping or confinement.
  - d. The chicken coop and run shall be adequately lighted and ventilated.
6. No storage of chicken manure is permitted within twenty (20) feet of the lot line.
7. Slaughtering of chickens on-site is prohibited.

E. *De-Icing Agent Storage.*

1. The storage of pavement de-icing agent in a quantity greater than fifty thousand (50,000) pounds shall conform to the requirements of Illinois Administrative Code Part 615, Subpart L: De-Icing Agent Storage and Handling Units.
2. The storage of pavement de-icing agent in a quantity of fifty thousand (50,000) pounds or less shall conform to the following standards.
  - a. Pavement de-icing agent may be stored on agricultural properties for use in the agricultural operations without limitation.
  - b. Bagged pavement de-icing agent may be stored without limitation provided that the packaging material is maintained in good condition such that the de-icing agent is not spilling out of the packaging. Any spilled de-icing agent shall be immediately swept up and properly disposed of.
  - c. The following standards apply to the bulk storage of de-icing agent indoors.
    - (1) The facility shall have a base constructed of materials, such as a bituminous or concrete pad, capable of containing the de-icing agent.
    - (2) The facility shall have a roof and walls constructed of materials capable of protecting the storage pile from precipitation and capable of preventing dissolved de-icing agent from running off to the adjacent soil, surface water, or groundwater.
  - d. The following standards apply to the bulk storage of de-icing agent outdoors.
    - (1) De-icing agent shall not be stored in locations where drainage may enter into water supplies, farm lands, or streams.
    - (2) All storage piles shall be placed on a surface constructed of materials, such as a bituminous or concrete pad, capable of containing the de-icing agent.
    - (3) An impermeable membrane or cover shall be placed over all storage piles to protect the piles from precipitation and surface water.
    - (4) Surface drainage must be directed to prevent flow through the base of storage piles.
    - (5) De-icing agent stored outdoor in temporary locations during the winter months shall be removed from the site and properly stored or disposed of at the end of the season.
  - e. Storage facilities, storage piles, and loading areas may be inspected regularly. Spilled de-icing agent shall be placed back in the indoor facility or under the impermeable cover.
3. Nothing in this section limits property owners from any liability for water pollution resulting from the improper storage or disposal of de-icing agent or from meeting any other State regulations for the storage or disposal of de-icing agent.

F. *Drive-Through Facility.*

1. Drive-through facilities are permitted as accessory to non-residential uses within the commercial, office, and industrial zoning districts. All drive-through facilities require site plan review and approval.
2. All drive-through facilities shall provide adequate stacking spaces, in accordance with Chapter 16.64 (Off-Street Parking and Loading).
3. All drive-through lanes shall be located and designed to ensure that they will not adversely affect the safety and efficiency of traffic circulation on adjoining streets.
4. No exterior lighting can produce a glare into or upon the surrounding properties. All drive-through facilities shall be properly screened, as required by this Ordinance, to prevent glare from vehicles passing through service lanes.

G. *Equestrian Uses and Structures.*

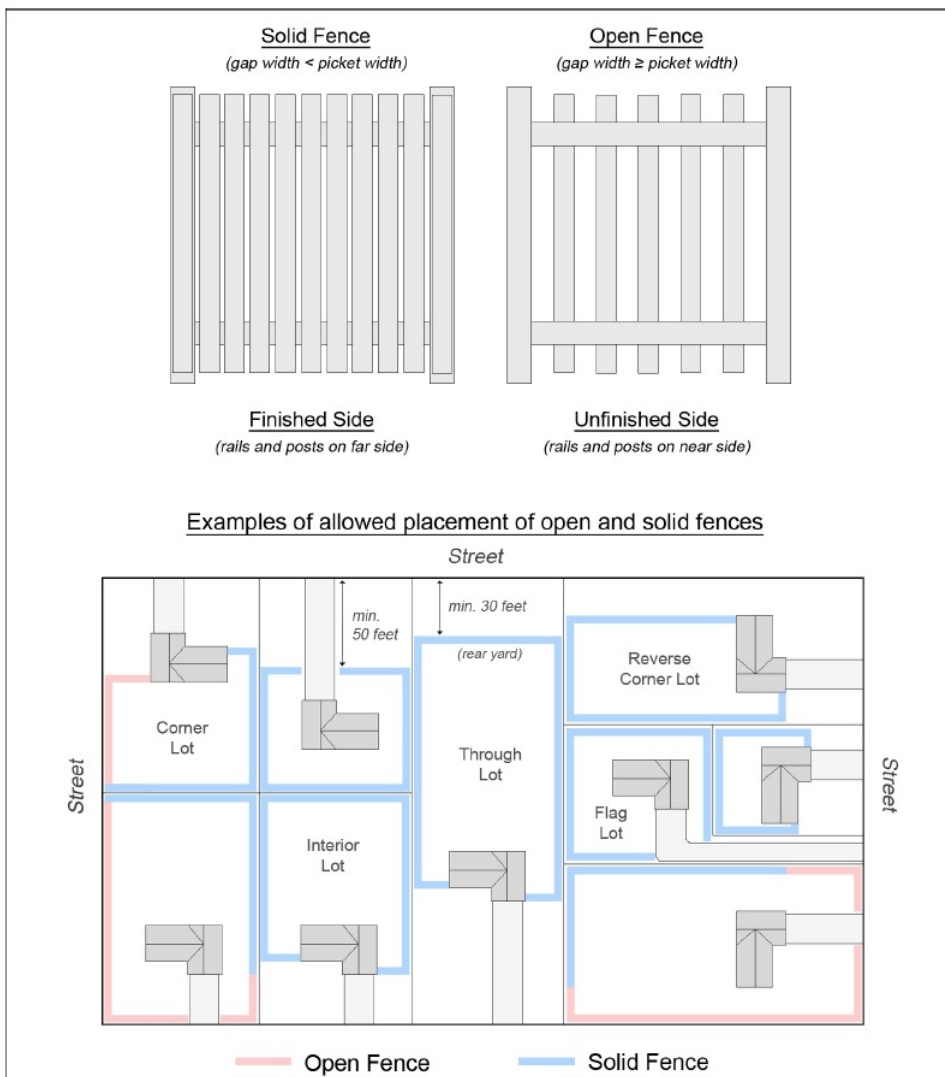
1. In the agricultural and estate districts, the keeping of horses for personal use is permitted on properties two (2) acres or larger.
2. A maximum of three (3) horses may be maintained on a two (2) acre parcel.
3. An additional gross lot area of fourteen thousand (14,000) square feet is required for each additional horse over eight (8) months of age on lots or parcels up to five (5) acres in area.
4. Lots or parcels of five (5) or more acres are not subject to a minimum lot area per horse.
5. Equestrian structures may include paddocks, polo fields, cross country courses, and the like.

H. *Fences.*

1. *Fence Construction and Design Requirements.*

- a. The finished side of all fences shall face away from the lot or parcel on which it located. All fence posts, excluding those for barbed wire fences, shall be placed on the inside of the fence.
  - b. A fence or wall, including all posts, bases, and other structural parts shall be located completely within the boundaries of the lot on which it is located. The installation of fencing by a private property owner in the public right-of-way is prohibited.
  - c. The use of barbed wire or aboveground electrical fences is prohibited, except:
    - (1) For the purposes of containing farm animals.
    - (2) On properties in the B-3, I-1, or I-2 districts, provided that it is mounted a minimum of six (6) feet above ground.
    - (3) As otherwise allowed by this Ordinance.
2. **Solid Fences.** Solid fences obscure more than fifty percent (50%) of the view through the fence and are subject to the following regulations:
- a. Solid fences are limited to a maximum height of six (6) feet, unless a taller fence is otherwise required by this Ordinance.
  - b. Solid fences are prohibited in effective street yards, with the following exceptions:
    - (1) Solid fences are permitted along the full length of the rear lot line of a corner lot when the rear lot line of another corner lot abuts said rear lot line.
    - (2) Solid fences are permitted along the full length of the lot lines forming the perimeter of the main building site of flag lots and land-locked parcels.
    - (3) Solid fences are permitted in effective street yards of through lots between the principal building and the rear lot line, with the following regulations:
      - (a) When the rear lot line abuts a County/State/US Route, Interstate Route or Regional Transportation Corridor (identified in Appendix D) and the adjacent neighboring properties rear lot lines also abuts the same County/State/US Route, Interstate Route or Regional Transportation Corridor, said solid fence may have a setback of zero (0) feet from the edge of the right-of-way.
      - (b) Along all other roadways, solid fences are to be located no closer than thirty (30) feet from the edge of the right-of-way.
      - (c) In no circumstance shall a solid fence interfere with the sight triangle (as shown in Figure 16.72-1).
      - (4) Solid fences having a maximum height of three (3) feet are permitted in any yard.
  - c. Construction of solid fences requires a building permit from the Department of Planning and Development.
3. **Open Fences.** Open fences obscure less than fifty percent (50%) of the view through the fence and are subject to the following regulations:
- a. Open fences are limited to a maximum height of eight (8) feet, unless they meet the setback requirements for principal structures.
  - b. Open fences are permitted along any lot line and in any effective yard.
  - c. Open fences are exempt from building permits, however construction in or near a floodplain or wetland area may require a stormwater review or stormwater permit.

**Figure 16.56-1: Fences**



I. **Home Occupations.** A home occupation is an accessory use, and shall be incidental and secondary to the principal use of the property for residential purposes. Home

occupations shall meet all of the following requirements:

1. The home occupation shall be conducted entirely within a principal or accessory structure, or within an agricultural exempt structure as permitted in §16.56.030B.4.c. No home occupation may be conducted outdoors. Indoor storage of vehicles used in conjunction with a home occupation, or indoor storage of vehicles as a home occupation, is allowed but must be fully enclosed.
2. The following occupation types are prohibited as home occupations: any type of auto repair, any type of small engine repair, and retail sales of ready-made items.
3. The operator of a home occupation must be a resident of the dwelling unit.
4. No more than one (1) person other than a member(s) of the household residing on the property may be working on-site at any one time. If the home occupation includes a dispatch component, employees to be dispatched are not to wait assignment or be dispatched from the property.
5. For home occupations where clients visit the premises, the home occupation shall schedule all visits by appointment only.
6. Outdoor storage of any items or materials related to the home occupation is prohibited. Outside storage of commercial equipment and vehicles, is prohibited, except for two (2) commercial vehicles per subsection K.2.c.ii. below.
7. No offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance can be produced which is perceivable at or beyond the lot lines. Any type of vehicle or small engine repair service is prohibited as a home occupation.
8. No deliveries or any other transactions of business within the residence, except emergency service, can be made between the hours of 10:00 p.m. and 7:00 a.m.
9. Home occupations shall comply with all other applicable federal, state, and County regulations, including all Department of Health regulations.
10. All home occupations conducted on a property or anticipated to be conducted on a property shall be identified in any conditional use permit application. The conditional use permit may contain conditions approving or limiting the continuation of existing or potential future home occupations.

J. *Off-Road Vehicle Riding – Personal.* The riding of gasoline-fueled motorcycles, all-terrain vehicles, mini-bikes, scooters, go-carts and similar off-road vehicles is permitted subject to the following limitations.

1. Operating off-road vehicle(s) is permitted from 7:00 am to 7:00 pm Monday through Friday and from 9:00 am to 7:00 pm Saturday and Sunday.
2. Off-road vehicle operation is limited to residents of the household occupying the property and invited family and friends without charge of an admission fee.
3. Off-road vehicles with a 2-stroke engine with an engine displacement under 100cc and off-road vehicles with a 4-stroke engine with an engine displacement under 500cc:
  - a. Shall not be operated on any property less than two (2) acres in size.
  - b. Shall not be operated within thirty (30) feet of any property line on any property two (2) acres or larger in size.
4. Off-road vehicles with a 2-stroke engine with an engine displacement of 100cc or greater and off-road vehicles with a 4-stroke engine with an engine displacement of 500cc or greater:
  - a. Shall not be operated on any property less than twenty (20) acres in size.
  - b. Shall not be operated within one-hundred (100) feet of any property line on any property less than twenty (20) acres or larger in size.
5. The McHenry County Sheriff Office may assist the Zoning Enforcement Officer with enforcement of this section. These restrictions do not apply to the operation of snowmobiles or electric-powered vehicles, equipment or toys. Nor do these regulations apply to the operation of vehicles or equipment that are being utilized for agricultural, lawn maintenance, property maintenance, construction, or similar utilitarian purposes.

K. *Outdoor Sales and Display, and Outdoor Storage.*

1. *Outdoor Sales and Display.* Uses with a retail component, excluding home occupations, are permitted outdoor sales and display of merchandise offered for sale outside the establishment and within the same zoning lot, subject to the following conditions:
  - a. No sales and display area is permitted in any public right-of-way or to obstruct pedestrian or vehicular traffic. No sales and display area is permitted in any required yard or within any parking area.
  - b. A portion of the parking area may be used for outdoor sales and display on a temporary basis only, in terms of both display structure and goods displayed or sold (no permanent display structures permitted in parking areas). Such temporary outdoor sales cannot exceed a total of one hundred twenty (120) days per calendar year. No more than twenty percent (20%) of the required parking area for the existing commercial use may be used for the temporary outdoor sales and display.
  - c. All outdoor display areas shall be designed with a landscape yard along any public street, a minimum of ten (10) feet in width and planted with vegetation. These screening requirements are not intended to prohibit openings reasonably necessary for access drives and walkways.
2. *Outdoor Storage.* This section governs Outdoor Storage as an accessory use. Outdoor Storage as the principal use of the property is governed by §16.56.030QQ. (Storage Yard). The storage of agricultural equipment and materials on properties used for agricultural purposes are not subject to these restrictions. The storage of construction equipment and materials on properties under active construction are not subject to these restrictions.
  - a. The following uses are permitted accessory outdoor storage: agricultural implement sales and service; asphalt/concrete batch facility; auction house; auto dealership; auto rental; earth extraction/mining; feed, tack, grain, and seed sales; freight terminal; garden center; greenhouse business; heavy retail sales and service; light industrial; heavy industrial; landscape business with outdoor storage; landscape waste composting facility; lumber yard; marina; nursery; offsite services business; recreational vehicle sales; recycling collection or processing facility; residential; restricted landing area; retail goods establishment; salvage yard; sawmill; waste transfer facility; wholesale establishment; or oil, gas, or water well - commercial.
  - b. In all zoning districts outdoor storage, other than commercial vehicle storage and recreational vehicle storage on properties used for residential purpose (see subsection K.2.c.-d. below), shall meet the following provisions, unless otherwise regulated or prohibited by this Ordinance or the McHenry County Public Health Ordinance:
    - (1) Outdoor storage does not include manufacturing, assembly, repair work, or other commercial activity. Such activity may only take place inside an enclosed building that meets applicable building codes.
    - (2) No outdoor storage shall be located in an effective street yard. Outdoor storage must be reasonably screened from view off the property by any combination of buildings, solid fencing, or solid landscaping. The fencing or landscaping shall have a minimum height of six (6) feet at time of installation. Storage is prohibited outside the screened area.
    - (3) All materials stored shall be related to a permitted use of the property.
    - (4) No required parking area can be used as outdoor storage.
  - c. Outdoor storage of commercial vehicles on property used for residential purposes is allowed, subject to the following:
    - (1) No more than two (2) commercial vehicles, with or without a hitched trailer, may be parked or stored outdoors on the property. Unhitched commercial trailers will be counted as a commercial vehicle.
    - (2) No commercial vehicle may be occupied or used for human habitation.
    - (3) Additional commercial vehicles, trailers, and equipment may be stored inside of a permitted and enclosed accessory building or inside an agricultural exempt structure, subject to subsection I.1. above regarding home occupations.
  - d. Outdoor storage of recreational vehicles on property used for residential purposes is allowed with the following restrictions:
    - (1) The owner or occupants of an occupied residential property, including an agricultural zoned property with an occupied dwelling unit, may park or store recreational vehicles, snowmobiles, off-road motorcycles, all-terrain vehicles, and trailers for the aforementioned vehicles on their property, provided that they are the owner of the aforementioned vehicles or trailers. Such recreational vehicles shall not be occupied for residential purposes.
    - (2) The owner or occupants of an occupied residential property, including an agricultural zoned property with an occupied dwelling unit, may allow a guest to park or store a single recreational vehicle, snowmobile, off-road motorcycle, all-terrain vehicle, or trailer for the aforementioned vehicles on their property for a total of not more than sixty

(60) days per calendar year, during which time the recreational vehicle may be occupied, provided that the property owner or occupants have made provisions for the supply of potable water and the disposal of human waste in a manner that meets the requirements of the McHenry County Public Health Ordinance.

(3) The storage or occupancy for residential purposes of recreational vehicles, snowmobiles, off-road motorcycles, all-terrain vehicles, and trailers for the aforementioned vehicles is prohibited on any property without an occupied dwelling unit, including properties used for commercial, office, or industrial purposes, unless otherwise specifically permitted by this ordinance.

3. *Indoor Storage.* Properties used for residential purposes are allowed to store vehicles indoors for the purpose of financial gain or in conjunction with a home occupation, subject to subsection I. above (Home Occupations).

L. *Recycling Drop-Off Point.* This section governs Recycling Drop-Off Points as accessory uses. Recycling Collection Centers as a principal use are governed by § 16.56.030KK. (Recycling Collection Center). Recycling drop-off points are permitted as an accessory to existing non-residential uses. A permit shall be obtained from the Department of Planning and Development. Copies of the application will be forwarded to appropriate County departments. All recycling drop-off points shall meet the following standards:

1. Recycling drop-off points shall comply with all Illinois Environmental Protection Agency regulations and McHenry County ordinances.
2. Recycling drop-off points shall be accessory to an existing non-residential principal use.
3. The structure or mobile unit where recyclable material is placed is limited to five hundred (500) square feet in area and cannot occupy more than five (5) parking spaces, exclusive of space that will be periodically needed for removal of materials or exchange of containers.
4. Recycling drop-off points shall comply with all district yard requirements.
5. Recycling drop-off points can accept only segregated, non-hazardous, non-special, homogeneous, non-putrescible materials, such as dry paper, glass, cans, plastic and reusable items.
6. Landscape waste may be accepted if an Illinois Environmental Protection Agency (IEPA) permit, or written evidence stating that a permit is not required from the IEPA, is received by the Zoning Enforcement Officer. All landscape activities shall comply with all IEPA regulations or any condition of their exemption.
7. Storage of recyclable material shall be in containers or in mobile units. Materials cannot be stored outside of containers. Containers shall be constructed and maintained of durable, waterproof, and rust resistant materials. Containers shall be covered and/or locked to prohibit unauthorized entry or removal of material.
8. Recycling drop-off points shall be maintained in a neat, sanitary, and litter-free manner.
9. All drop-off points located within one hundred (100) feet of a property zoned for residential use may operate only between the hours of 9:00 a.m. and 7:00 p.m.
10. Containers shall be secured and set back at least thirty (30) feet from any property zoned or occupied for residential purposes and utilize screening between the containers and the residential use as prescribed by the Zoning Enforcement Officer.
11. Containers shall be marked and positioned to clearly identify the type of materials that may be deposited. The site shall have signs, apart from the containers, which clearly identify the name and telephone number of the operator and hours of operation and displays a notice stating that no material can be left outside the recycling container or enclosure.
12. Mobile recycling units shall have an area clearly marked to prohibit other vehicular parking during hours when the mobile unit is scheduled to be present.

M. *Satellite Dish Antennas.* Shall be installed in accordance with any applicable Federal Communications Commission (FCC) regulations.

N. *Solar Panel.*

1. *General Requirements.* The installation and construction of solar panels is subject to the following development and design standards:
  - a. A solar panel may be building-mounted or freestanding.
  - b. Solar panels shall be placed so that concentrated solar radiation or glare is not directed onto nearby properties or roadways.
  - c. All electrical interconnections to the grid shall conform to the National Electrical Code. Prior to issuance of a building permit, applications for grid-connected solar panels shall include a copy of an approved interconnection agreement with the local utility or a letter from the local utility indicating that an interconnection agreement is not required.
  - d. Advertising signs are prohibited. The manufacturer and equipment information, warning signs, or ownership information is allowed.
  - e. Accessory solar panels must be secondary to the principal use and must first supply energy to the subject property on which it is located.
  - f. Any accessory solar panels which combined are rated to produce 500kW or more of electric energy shall follow all of the use standards of §16.56.030.PP.2, 3, 4, & 5 for Solar Farm.

2. *Building-Mounted Systems.*

- a. A building mounted system may be mounted on the roof or wall of a principal building or accessory structure.
  - b. On pitched roof buildings, the maximum height of the solar panel shall not exceed the height of the building.
  - c. On flat roofed buildings, the solar panel system is limited to the maximum height of five (5) feet above the roof.
  - d. Solar panels may project off a building facade as follows.
    - (1) May project up to four (4) feet from a facade.
    - (2) May encroach into a required yard, but no closer than five (5) feet to the side or rear property line.
3. *Freestanding Systems.*
- a. A freestanding system shall follow the setbacks and yard restrictions for accessory structures in §16.56.050A.1. (Standards for All Accessory Structures).
  - b. A freestanding system cannot exceed the maximum building height for accessory structures of the district.
  - c. Freestanding solar panels are excluded from the calculation of permitted building and impervious surface coverage provided the area beneath the panels is maintained in a pervious condition.

O. *Swimming Pools.*

1. Swimming pools shall comply with the requirements of the County building codes, Public Health Ordinance, and Stormwater Management Ordinance.
2. All swimming pools, including permanent and temporary swimming pools, must meet all required accessory structure setbacks.
3. Swimming pools shall provide a barrier as required by the Public Health Ordinance.

P. *Wind Energy Systems – Building Mounted.*

1. *Structural Integrity.* Construction plans for building-mounted wind energy systems (WESs) shall be stamped by a structural engineer or architect, certifying the structural integrity of the building to support the WES.
2. *Height.* Building-mounted WESs are limited to maximum system height of fifteen (15) feet.
3. *Blade Diameter.*
  - a. The diameter of the swept area of a building-mounted WES mounted to a structure in a residential zoning district is limited to twenty percent (20%) of the length of the structure's longest side profile.
  - b. The diameter of the swept area of a building-mounted WES mounted to a non-residential structure is limited to fifty percent (50%) of the length of the structure's longest side profile.

4. *Appearance.*
    - a. The turbine, tower, and blades shall be uniform in style and finished in an unobtrusive neutral color, such as off-white, light grey, etc. However, the blade components of a WES may be of a dark color to aid in de-icing.
    - b. The required coloration and finish shall be maintained throughout the life of the system.
    - c. Except for required warnings, and tower identification and system manufacturer and system operator identification, no lettering, advertising, or graphics on the WES is permitted.
    - d. Any attachments to the WES shall serve a critical operational function and be as inconspicuous as function allows or approved as part of a conditional use permit.
  5. *Noise and Vibration.*
    - a. WESs shall utilize commercially available and reasonable sound-attenuation measures to minimize potential noise impacts for surrounding and nearby properties.
    - b. The sound level from a WES shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations.
    - c. The applicant shall submit manufacturer's certification, or other data acceptable to the Zoning Enforcement Officer, documenting that the WES complies with IPCB standards. If a noise violation occurs, the WES shall cease operation until the violation has been satisfactorily resolved.
  6. *Shadow Flicker Requirements.*
    - a. WESs shall be sited such that shadow flicker will not fall on any window of any habitable building of any nonparticipating property within five hundred (500) feet for more than fifteen (15) minutes per day, unless the applicant commits to a schedule for turning off the offending WES during these periods.
    - b. New habitable buildings or new windows on existing habitable buildings affected by shadow flicker shall not restrict the operation of a WES or necessitate an alteration to a WES's operation schedule, if they are constructed after the WES has obtained all required permits for operation and construction.
  7. *Sun Glint.* The finish of WESs shall be flat or matte and non-reflective to reduce the incidence of sun-glint.
  8. *Ice Throw.* WESs shall employ preventive measures to eliminate any deleterious effects of ice throw in compliance with the specifications contained in the *Germanischer Lloyd – Guideline for the Certification of Wind Turbines* (Section 2.3.2.18 in the 2003 edition and as amended from time to time).
  9. *Control and Braking Systems.* In order to limit blade rotation in extremely high winds and to allow for manufacturer and industry recommended maintenance activities, WESs shall meet the following:
    - a. Horizontal WESs shall be equipped with an over-speed control (i.e., variable pitch control or passive stall control) and a braking system.
    - b. Vertical WESs shall be equipped with a braking system or other physical restraint.
  10. *Fire Risk.* WESs shall comply with all applicable electrical codes and standards and shall remove potential fuel sources, such as vegetation, flammable liquids, or other combustible materials from the immediate vicinity of electrical equipment and connection points.
  11. *Lighting.* The WES shall not be artificially lit, except as required by the Federal Aviation Administration or as necessary for workers involved in maintenance or repairs. Spotlights are prohibited to illuminate the turbine.
  12. *Grid Connections.* All electrical interconnections to the grid shall conform to the National Electrical Code. Prior to issuance of a building permit, applications for grid-connected WES shall include a copy of an approved interconnection agreement with the local utility or a letter from the local utility indicating that an interconnection agreement is not required.
  13. *Signal Interference.* WESs shall not violate any Federal Communication Commission (FCC) laws regarding electromagnetic signal interference or other requirements.
  14. *Ancillary Facilities.* Ancillary facilities shall meet all applicable zoning and permit requirements.
- Q. *Outdoor Entertainment Area.* Outdoor entertainment areas allow for music or live performances to occur as an accessory to certain uses. Subject to the standards of this Section, the following uses are permitted an accessory outdoor entertainment area: alcoholic beverages—consumption on-premise, club/lodge, country club, resort, and restaurant. Outdoor entertainment beyond the scope of this section may be permitted on a temporary basis with a temporary entertainment permit, subject to the standards of § 16.56.040D.
1. *Size Limitation.*
    - a. The combined occupant capacities of the principal building and the outdoor entertainment area cannot exceed the designed capacity of the on-site wastewater treatment system.
  2. *Location and Speakers.*
    - a. The outdoor entertainment area must be located a minimum of fifty (50) feet from any property zoned or occupied for a residential use.
    - b. All speakers for public address system and amplified music must be located a minimum of fifty (50) feet from any lot line and directed towards the interior of the property.
  4. *Hours.* Outdoor entertainment is allowed only during normal business hours of operation but not to exceed 10:00 p.m.—Sunday through Thursday, and 12:00 a.m.—Friday and Saturday.
- (Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 14.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018; Ord. O-201911-ZBA-057, passed 11-19-2019)

## CHAPTER 16.60: SITE DEVELOPMENT STANDARDS

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### Section

- 16.60.010 General development standards
- 16.60.020 Exterior lighting
- 16.60.030 Permitted encroachments
- 16.60.040 Environmental performance standards
- 16.60.050 Street naming and numbering
- 16.60.060 (Reserved)

### § 16.60.010 GENERAL DEVELOPMENT STANDARDS.

- A. *Number of Principal Buildings on a Lot or Parcel.*
1. In the agricultural and residential zoning districts, excluding the R-2 and R-3 Districts, a maximum of one (1) dwelling unit is permitted per lot or parcel. However, where allowed by the Ordinance, this does not apply to the presence of an ancillary dwelling unit.
  2. In the R-2 District, a maximum of one (1) residential structure containing a maximum of two (2) dwelling units is permitted per lot or parcel. However, where allowed by the Ordinance, this does not apply to the presence of an ancillary dwelling unit.
  3. In all other districts, multiple principal buildings may be erected on a single lot or parcel provided that each building complies with all bulk and setback requirements of the district. See § 16.56.030B.4.a. for additional rules for agricultural exempt structures.

4. The owner of a parcel may construct a replacement structure on the same lot or parcel prior to the demolition of an existing structure, provided that:
    - a. The replacement structure complies with all applicable bulk and setback requirements of the district.
    - b. The property owner enters into a legally binding agreement with the County stipulating that occupancy of the second structure is tied to a demolition schedule for the first structure.
    - c. The property owner posts a letter of credit in the amount of one hundred fifty percent (150%) of the cost of demolition and removal of the first structure, in a form approved by the Zoning Enforcement Officer. This letter of credit may be redeemed by the County if the property owner defaults on the agreement.
- B. *Frontage on a Public or Private Street.* All lots and parcels shall front on a public or private street.
- C. *Required Setbacks.* Required setbacks are measured as the minimum dimension required by a zoning district measured from the applicable lot lines (see Figure 16.60-1: *Required Setbacks*). Required setbacks are defined as follows:
1. The required street setback extends along the front and corner side lot lines between the front, interior side, and rear lot lines, for the required minimum depth specified by the zoning district in which the lot is located, measured perpendicular to the applicable lot line.

**Figure 16.60-1: Required Setbacks**



a. For residential uses in the agricultural and residential zoning districts, the minimum required street setback is established in Table 16.36-1. However, the required street setback may also be established by either of the following alternate methods:

- (1) The platted street setback.
- (2) The average of the street setback of existing homes on the same side of the blockface when sixty percent (60%) of the blockface is developed. For blockfaces that extend more than six hundred (600) feet, only parcels located within three hundred (300) feet of either side of the lot shall be considered.

In no case shall a street setback be reduced to less than ten (10) feet, unless granted by a zoning variation.

2. The required interior side setback extends along an interior side lot line between the front and rear setbacks, for the required minimum depth specified by the zoning district in which the lot is located, measured perpendicular to the interior side lot line.

a. On nonconforming lots or parcels of record, setbacks for single-family dwellings and residential accessory structures may be reduced from the setbacks established by the bulk and setback tables of this Ordinance, per § 16.80.050D. (Reduced Setbacks).

b. On lots or parcels with an interior side lot line that abuts a body of water or waterway, principal and accessory structures are allowed a zero-foot (0') waterfront setback, subject to the McHenry County Stormwater Management Ordinance.

3. The required rear setback extends between the side lot lines for the required minimum depth specified by the zoning district in which the lot is located, measured perpendicular to the rear lot line.

a. On lots or parcels with a rear lot line that abuts a body of water or waterway, principal and accessory structures are allowed a zero-foot (0') waterfront setback, subject to the McHenry County Stormwater Management Ordinance.

4. Permitted encroachments are described in Table 16.60-1: *Permitted Encroachments*. An encroachment is the extension of an attached accessory structure or architectural feature of a principal dwelling into a required setback as listed in Table 16.36-1: *Zoning Districts Bulk and Setback Regulations* or as allowed under § 16.80.050D. (Reduced Setbacks).

If the principal dwelling is a nonconforming structure, the amount it encroaches into the required setback in Table 16.36-1 is added to the allowed encroachment amount granted in Table 16.60-1. With the exception of accessibility ramps, encroachments shall not result in an attached accessory structure or architectural feature being constructed closer than ten (10) feet from a street lot line, fifteen (15) feet from a corner side lot line, or five (5) feet from an interior side or rear lot line. Encroachments into recorded easements are prohibited without the express written permission of the easement holder(s) to which the easement is granted.

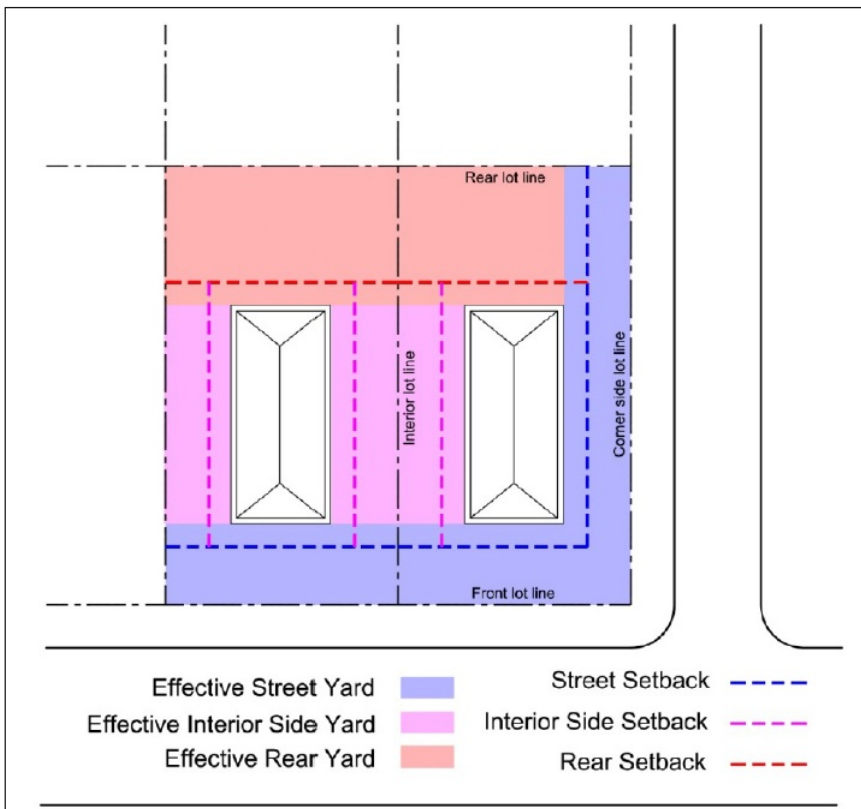
<b>TABLE 16.60-1: PERMITTED ENCROACHMENTS</b>				
<b>Y= Permitted // N= Not Permitted</b>				
<b>Attached Accessory Structure or Architectural Feature</b>	<b>Front Setback</b>	<b>Corner Side Setback</b>	<b>Interior Side Setback</b>	<b>Rear Setback</b>
<b>TABLE 16.60-1: PERMITTED ENCROACHMENTS</b>				
<b>Y= Permitted // N= Not Permitted</b>				
<b>Attached Accessory Structure or Architectural Feature</b>	<b>Front Setback</b>	<b>Corner Side Setback</b>	<b>Interior Side Setback</b>	<b>Rear Setback</b>

Accessibility Ramp - No encroachment restrictions	Y	Y	Y	Y
Air Conditioner Window Unit - No more than 18" into a required setback	Y	Y	Y	Y
Air Conditioner/HVAC Condensing Unit/Generators - No more than 3' into a required setback	N	Y	Y	Y
Awning and Canopy - Minimum clearance of 7'6" - No more than 2' into a required setback	Y	Y	Y	Y
Balcony - Shall be located at least 2' above ground - No more than 4' into a required setback	Y	Y	Y	Y
Bay Window - No more than 3' into a required setback	Y	Y	Y	Y
Carport - No more than 5' into a required setback	N	Y	Y	Y
Chimney - No more than 24" into a required setback	Y	Y	Y	Y
Deck, Patio (>4" above grade), or Pergola - Shall be unenclosed - No more than 5' into a required setback	Y	Y	Y	Y
Eaves of the principal structure - No more than 4' into a required setback	Y	Y	Y	Y
Exterior Stairwells - No more than 5' into a required setback	N	N	Y	Y
Fire Escape - No more than 5' into a required setback	Y	Y	Y	Y
Porch - Shall be unenclosed - No more than 5' into a required setback	Y	Y	Y	Y
Sills, belt course, cornices, and ornamental features of the principal structure - No more than 3' into a required setback	Y	Y	Y	Y
Steps and stoops - No more than 10' into a required setback	Y	Y	Y	Y

D. *Effective Yards.* An effective yard is the space located between a structure and the adjoining lot lines. (See Figure 16.60-2: *Effective Yards.*) In this Ordinance, certain accessory structures are prohibited from locating within effective yards. The distinction is made because certain principal buildings may be set back further than required by district standards, thereby creating a yard larger than the minimum required setback dimension.

1. The effective street yard extends from the closest point of the front and corner side building lines of the principal building to the front and corner side lot lines. A yard that abuts an alley is not an effective street yard.
2. The effective interior side yard extends from the closest point of the side of the principal building to the interior side lot.
3. The effective rear yard extends from the closest point of the rear of the principal building to the rear lot line.

Figure 16.60-2: **Effective Yards**



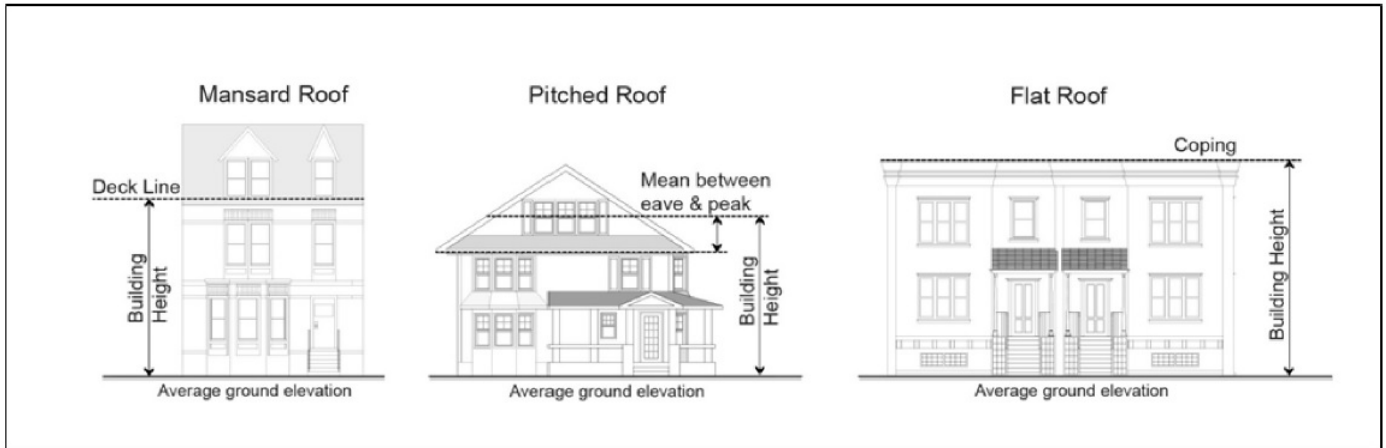
E. *Contiguous Lots or Parcels*. In the event that the construction of a building or the establishment of a use requires multiple lots or parcels in order to meet the lot area, setback, or lot or parcel dimensional requirements of this Ordinance for the building or use, the lots or parcels shall be deed restricted prior to construction of the building or establishment of the use using County approved deed restriction language.

F. *Building Height*.

1. *Principal Building Height*.

- a. Principal building height is measured as the vertical distance from the average ground elevation to:
  - (1) The highest point of the coping of a flat roof.
  - (2) The deck line of a mansard roof.
  - (3) The mean height level that is located midway between the eaves and ridge for gable, hip, or gambrel roofs.
- b. Chimneys, architectural towers, spires, elevator penthouses, cooling towers, and similar appurtenances are not included in calculating building heights.
- c. See § 16.56.050A. (Accessory Structures – General Regulations) for accessory structure height limits.

Figure 16.60-3: Principal Building Height Measurement



2. *Exempt Structures*. The following structures or their appurtenances are exempt from the height limitations within the zoning districts, unless limited by height restriction imposed by an airport authority or similar agency operating an airport, or other state or federal exemptions:

- a. Agricultural buildings.
- b. Bell towers.
- c. Bulk storage towers and silos.
- d. Cooling towers.
- e. Flagpoles not used for advertising.
- f. Gravity feed apparatus.
- g. Public utility poles, towers, wires, and other apparatus.
- h. Smokestacks.
- i. Towers and antennas, subject to the conditions of §§ 16.56.030RR. and 16.56.030SS.
- j. Water storage towers, tanks, and standpipes.
- k. Wind energy systems, subject to the conditions of § 16.56.030TT.
- l. Attached accessory structures, subject to the conditions of § 16.60.030.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 15.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018; Ord. O-201911-ZBA-057, passed 11-19-2019)

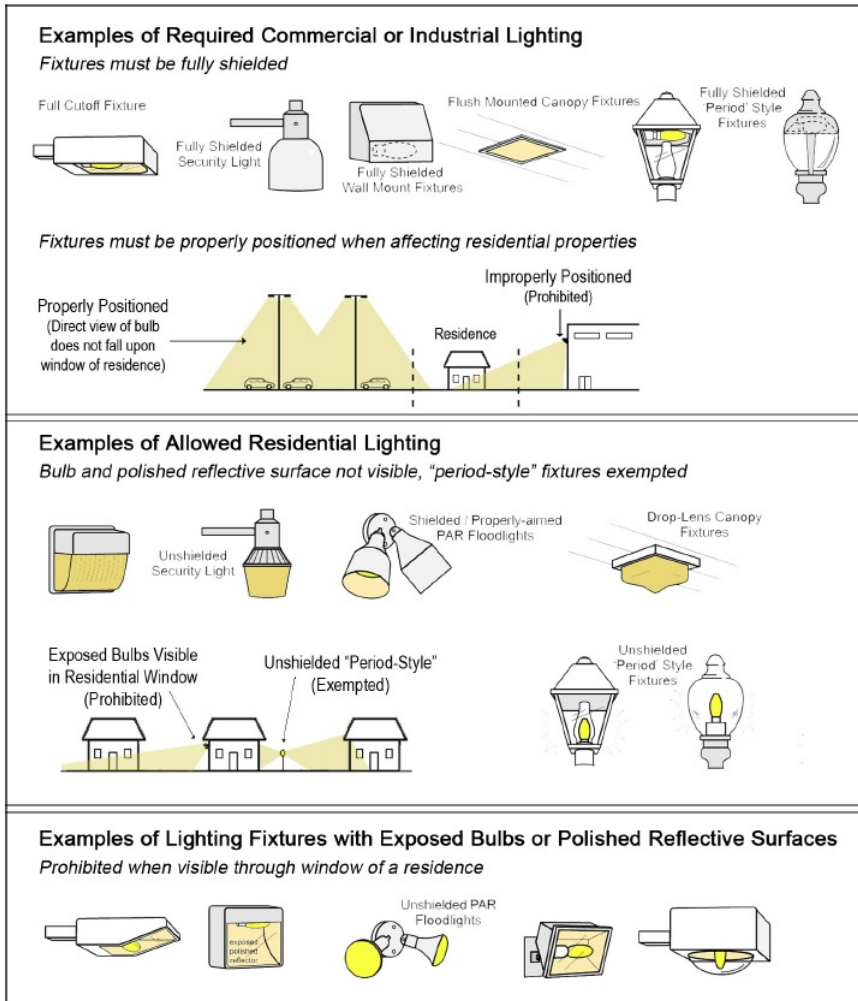
§ 16.60.020 EXTERIOR LIGHTING.

- A. New installations of permanent lighting for a commercial or industrial use must use a fully shielded lighting fixture positioned so as to prevent direct view of the bulb or polished reflective surface through a window of a residence. (See Figure 16.60-4)
- B. New installations of permanent lighting for a residential use must be positioned so as to prevent direct view of the bulb or polished reflective surface through a window of a residence, with the exception of 'period-style' fixtures. (See Figure 16.60-4)
- C. Installations of non-permanent lighting is allowed without shielding so long as it is done in conjunction with a temporary use permit or for primarily decorative purposes, such as holiday lighting.

Figure 16.60-4: Exterior Lighting



Figure 16.60-4: Exterior Lighting



(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 15.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.60.030 PERMITTED ENCROACHMENTS.**

A. *Purpose.* The landscape and screening requirements are intended to preserve and enhance the appearance, public health, safety, and welfare of the County by fostering an aesthetically pleasing development. Proper landscape contributes to the County in many ways: enhancing its character and scenic beauty, providing clean air, reducing noise, preventing erosion of topsoil, reducing the rate of stormwater runoff, providing nesting areas for birds and habitat for other wildlife, conserving energy, and providing shade and windbreaks. These regulations are also intended to increase the compatibility of adjacent uses, and minimize the adverse impact of noise, dust, motor vehicle headlight glare or other artificial light intrusions, and other objectionable activities or impacts conducted on, or created by, adjoining or neighboring uses.

B. *Applicability.* The landscape and screening requirements established by this Section apply to property in the commercial, office, and industrial zoning districts. Property in the agricultural and residential zoning districts are exempt. Landscape and screening standards must be met for buffer yards, refuse storage areas, loading berths, and parking lot perimeters and interiors.

C. *Enforcement of Landscape Provisions.* No occupancy permit will be issued for any structure, subject to the requirements of this Section, unless all the requirements have been met. Failure to implement the landscape plan or to maintain the lot or use in substantial conformance with the landscape plan is cause for an enforcement action including the possible application of fines and penalties, as established in this Ordinance. In addition, all landscape is subject to periodic inspection.

1. If weather prohibits the installation of landscape at the time an occupancy permit is applied for, the applicant can provide the County with a letter of credit or cash in the amount required to complete landscape installation in order to receive an occupancy permit, which will be returned upon completion of required landscape.

2. Landscape materials depicted on approved landscape plans are considered required site plan elements in the same manner as buildings, parking and other improvements. As such, the owner or, if applicable, the homeowners association is responsible for the maintenance, repair and replacement of all landscape materials, and fences, steps, retaining walls, and similar landscape elements over the entire life of the development.

3. All landscape materials shall be maintained in good condition, present a healthy, neat and orderly appearance, and kept free of refuse and debris. Unless an extension is granted due to weather, any dead, unhealthy, or missing plants shall be replaced within thirty (30) days of notification by the Zoning Enforcement Officer. Fences, steps, and retaining walls and similar elements shall be maintained in good repair. The owner of the premises is responsible for the maintenance, repair, and replacement of all landscape materials, fences, steps, retaining walls and similar elements, and refuse disposal areas. Irrigation systems, when provided, shall be maintained in good operating condition.

D. *Required Landscape Design Standards.* Required landscape plans, as described above, shall be evaluated and approved based on the following design criteria.

1. The scale and nature of landscape materials shall be appropriate to the size of the site and related structures.
2. Plant material shall be selected for its form, texture, color, pattern of growth, and suitability to local conditions. Species shall be considered for hardiness, year-round interest, color, habitat and food source for birds and animals, and use in similar locations in other communities. Trees with inappropriate root systems for an area or those generally not recommended by landscape architects are not permitted.
3. All planting materials used shall be of good quality. The use of species native to northeastern Illinois is encouraged. Size and density of plant material, both at the time of planting and at maturity, should be considered when selecting plant material. Where appropriate, the use of drought and salt tolerant plant material is preferred.
4. All plant materials shall be free of disease and installed so that soil of sufficient volume, composition, and nutrient balance are available to sustain healthy growth.
5. Unless specified otherwise in this ordinance, trees and shrubs shall be sized as follows at planting:
  - a. All deciduous shade trees shall have a minimum trunk size of three (3) inches in caliper at planting.
  - b. Evergreens trees shall have a minimum height of eight (8) feet at planting.

c. Single stem ornamental trees shall have a minimum trunk size of three (3) inches in caliper at planting. Multiple stem ornamental trees shall have a minimum height of eight (8) feet at planting.

d. Unless otherwise specified, all large deciduous and evergreen shrubs shall have a minimum height of three (3) feet at installation, and all small deciduous and evergreen shrubs shall have a minimum height of eighteen (18) inches at installation. Large shrubs are those that reach five (5) or more feet in height at maturity. Small shrubs are those that can grow up to five (5) feet in height if left unmaintained, but are generally kept at heights of eighteen (18) to thirty (30) inches.

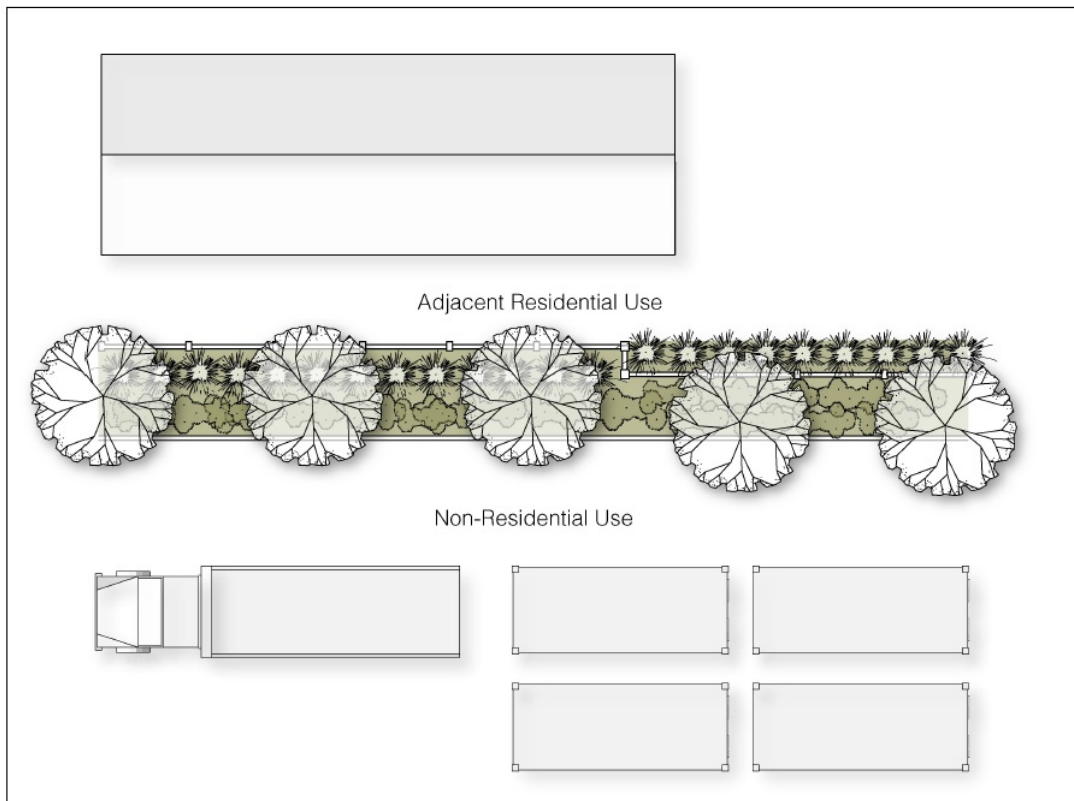
6. Species diversity in required plant material is required for visual interest and to reduce the risk of losing a large population of plants due to disease. Table 16.60-2, Species Diversity indicates the of diversity required based on the total quantity of species being used. (For example, if a landscape plan requires 12 trees, a minimum of three tree species is required.)

TABLE 16.60-2: SPECIES DIVERSITY	
TOTAL NUMBER OF REQUIRED PLANTINGS PER EACH PLANT TYPE	MINIMUM NUMBER OF SPECIES
1-4	1
5-10	2
11-15	3
16-75	5
76-500	8
500-1,000	10
1,000+	15

E. Buffer Yards. This section establishes standards for the dimensions and improvement requirements of buffer yards between land uses and/or zoning districts within the rear or interior side yard. (See Figure 16.60-5: Buffer Yard Landscape)

Figure 16.60-5: BUFFER YARD LANDSCAPE

Figure 16.60-5: BUFFER YARD LANDSCAPE



1. As of the effective date of this Ordinance, buffer yards are required for new commercial or industrial construction or uses that abut a property with an existing residential use in a residential zoning district or the A-2 District, unless separated by a street or alley. When new commercial construction locates next to an existing residential use, the new commercial construction shall provide the buffer yard. If a new residential use locates next to an existing commercial use, the existing commercial use is not required to provide a buffer yard and is not considered nonconforming. Agricultural buildings and uses are not required to provide buffer yards.

2. Buffer yards are required along the interior side and rear lot lines. Buffer yards may be located within required setbacks, but shall be reserved for the planting of material and installation of screening as required by this section. No parking, accessory buildings, or other structures are permitted within the buffer yard area.

3. All plantings in the buffer yard shall meet the following standards:

a. The buffer yard planting area shall be a minimum of five (5) feet in width in addition to the area provided for the required fence or wall.

b. Shade trees shall be planted on an average of one (1) tree for every twenty-five (25) linear feet of yard length. As part of the landscape plan approval, trees may be spaced at various intervals based on specific site requirements or design scheme, but the total number of trees planted shall be no less than the amount required by a linear planting spaced twenty-five (25) feet apart.

c. An opaque masonry wall (stone, stucco or brick), solid fence, or dense evergreen hedge, at least six (6) feet in height, is required along one hundred percent (100%) of the yard length. The fence may be located on the inside of the landscape plantings (adjacent to the non-residential use) or may be located on the outside of the landscape plantings (adjacent to the existing residential use in a residential zoning district or the A-2 District).

d. Shrubs shall be planted on an average of one (1) shrub for every three (3) feet of yard length. As part of the landscape plan approval, shrubs may be spaced at various intervals based on specific site requirements or design scheme, but the total number of shrubs planted will be no less than the amount required by a linear planting spaced three (3) feet apart.

F. *Screening Requirements.*

1. *Refuse Disposal Dumpsters and Refuse Storage Areas.* All refuse containers shall be fully enclosed on three (3) sides by an opaque masonry wall (stone, stucco or brick) or wall of the principal structure six (6) feet in height, or a solid fence, and the enclosure shall be gated. The materials used for screening, including the enclosure, shall complement the architecture of the principal structure. An extension of an exterior principal structure wall may be used as one of the screening walls for a refuse container, provided that such wall meets the minimum six (6) foot height requirement and is of the same building materials as the principal building. Such wall may not be the gated enclosure.

2. *Loading Berths.* Where feasible, loading berths should be located and oriented so as not be visible from the street and adjacent properties, while still allowing access to the use it is serving. In addition, loading berths in all zoning districts shall be screened from view, unless such screening is determined unnecessary by the Zoning Enforcement Officer. Such screening shall consist of an opaque masonry wall (stone, stucco or brick), a solid fence, or dense evergreen hedge, at least six (6) feet in height.

G. *Parking Lot Landscape.*

1. *Applicability.*

a. Interior parking lot landscape is required for new or expanded parking facilities that consist of fifteen (15) or more paved spaces. This Section applies whether the parking facilities are required to be paved by this Ordinance or have been paved voluntarily.

b. Perimeter parking lot landscape is required for new or expanded parking facilities within ten (10') feet of a right-of-way that consist of fifteen (15) or more paved spaces. This Section applies whether the parking facilities are required to be paved by this Ordinance or have been paved voluntarily.

c. For existing parking lots in the commercial, office, and industrial zoning districts that currently do not comply with the required parking lot landscape standards, such landscape is required when a new principal building is constructed or an existing building or use is expanded to the extent that the parking lot is required to be expanded by fifty percent (50%) or more.

d. Nothing in this Section prevents the applicant's voluntary installation of additional landscape.

2. *Parking Lot Perimeter Landscape.* Parking lot perimeter landscape provides for the enhancement and screening of parking lots by requiring a scheme of pedestrian walls and/or landscape along public streets. The landscape treatment shall run the full length of the parking lot and be located between the property line and the edge of the parking lot. Landscape areas outside of shrub and tree masses shall be planted in live groundcover. (See Figure 16.60-6: *Parking Lot Perimeter Landscape.*) The landscape area shall be improved as follows:

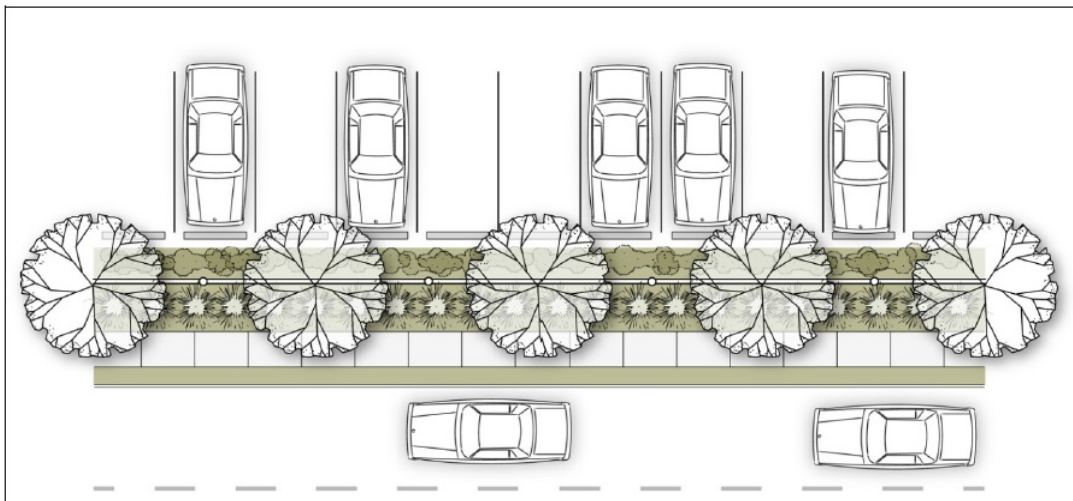
a. The perimeter parking lot landscape area shall be at least five (5) feet in width, as measured from the back of curb or wheelstop.

b. One (1) shrub, measuring a minimum of eighteen (18) inches at planting and a minimum of three (3) feet at maturity, shall be planted for every three (3) feet of landscape area length, spaced linearly to adequately screen vehicle bumpers. Alternatively, a low pedestrian wall, the height of which provides effective screening to a maximum height of three (3) feet, may be used instead of shrubs.

c. All perimeter parking lot landscape areas shall be protected through curbing or alternate designs to prevent damage to landscape from vehicles. Protection designs that allow water to infiltrate into landscape are encouraged.

Figure 16.60-6: *Parking Lot Perimeter Landscape*

Figure 16.60-6: *Parking Lot Perimeter Landscape*



3. *Parking Lot Interior Landscape.* (See Figure 16.60-7: *Interior Parking Lot Landscape*)

a. *Amount of Landscape.* A minimum of one (1) parking lot island shall be provided per every row of twenty (20) parking spaces, whether a single row or double row of stalls. As part of the landscape plan approval, parking lot island locations may be varied based on specific site requirements or design scheme. All rows of parking spaces shall be terminated by a parking lot island or landscape area.

b. *Size and Planting of Parking Lot Islands.* Parking lot islands shall be the same width and depth as a parking stall. Double rows of parking shall provide parking lot islands that are the same width and depth as the double parking stall. A minimum of one (1) shade tree is required for every parking lot island. If the island extends the width of a double row, then two (2) shade trees are required. As an alternative to intermediate landscape islands within rows of more than twenty (20) parking stalls, linear planting strips that separate double rows of parking stalls and that serve as stormwater swales are permitted. However, all rows of parking spaces shall be terminated by a parking lot island or landscape area.

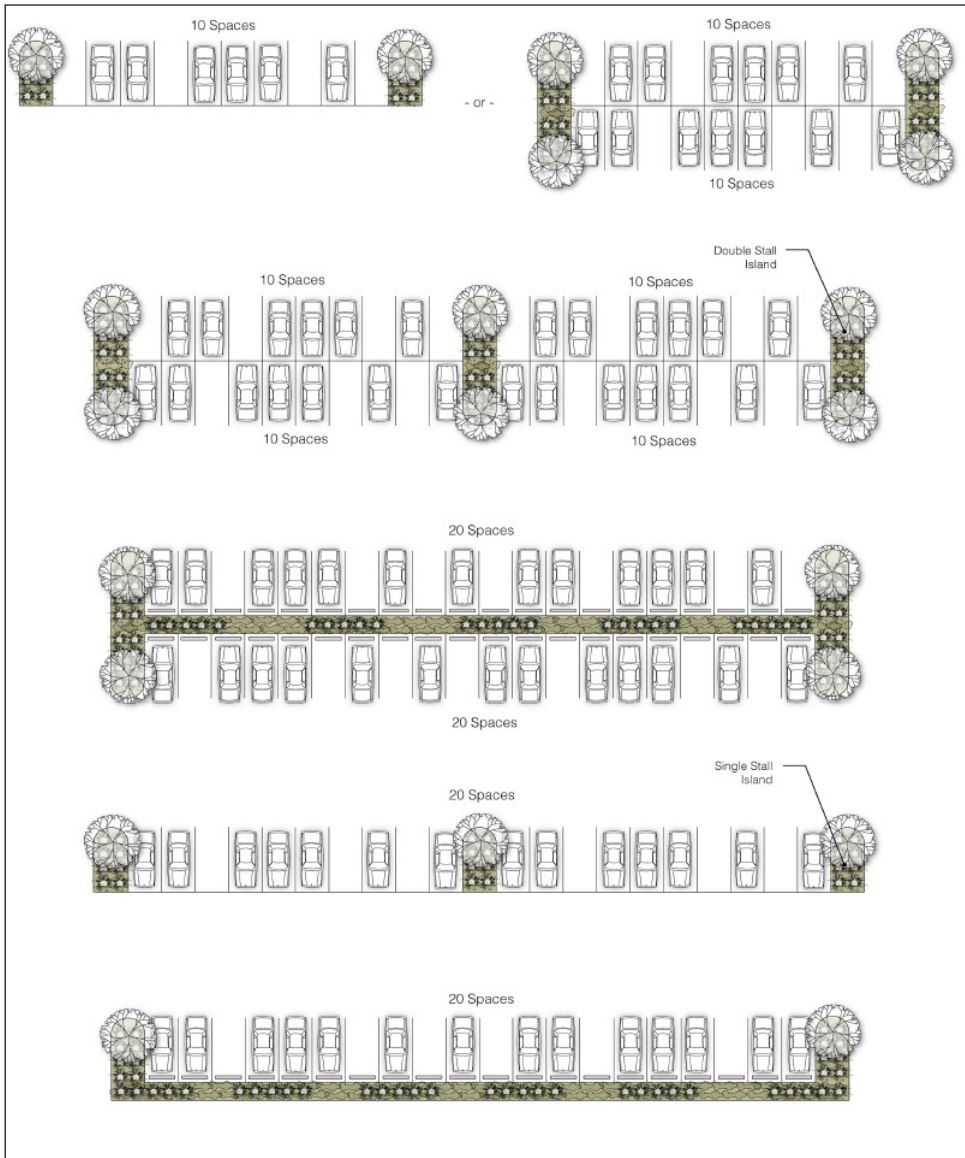
c. *Type of Landscape Material.* Shade trees shall be the primary plant materials used in parking lot islands and landscape areas. Ornamental trees, shrubs, hedges, and other plant materials may supplement the shade tree plantings but cannot create visibility concerns for automobiles and pedestrians.

d. *Groundcover.* A minimum of seventy-five percent (75%) of every parking lot island shall be planted in live groundcover, perennials, or ornamental grasses.

e. *Curbing.* All parking lot islands shall be protected through curbing or alternate designs to prevent damage to landscape from vehicles. Protection designs that allow water to infiltrate into landscape are encouraged.

Figure 16.60-7: *Interior Parking Lot Landscape*

**Figure 16.60-7: Interior Parking Lot Landscape**



(Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.60.040 ENVIRONMENTAL PERFORMANCE STANDARDS.**

- A. *Standards.* All uses, except agricultural uses, shall be so operated so as to comply with the performance standards described in this section. In addition to these performance standards, all uses shall be constructed, maintained, and operated as not to be injurious to the use and occupation of the adjacent premises by reason of the emission or creation of noise, vibration, radiation, fire and explosive hazard, or glare. All noise, vibration, radiation, fire and explosive hazard, or glare shall conform to local, state, and federal laws. Nothing in this section may be construed to alter, change, modify or abrogate any authority granted exclusively to any state or federal regulations.
- B. *Noise.* No activity or use may be conducted in a manner that generates a level of sound as measured on another property greater than that allowed by federal, state, or local regulations, as amended from time to time, including, but not limited to, Illinois Environmental Protection Agency standards (title 35, subtitle H, Chapter I, Section 900.102). These limits do not apply to construction noises, noises emanating from safety signals or warning devices, noises not directly under the control of the owner or occupant of the property, and transient noises from moving sources, such as motor vehicles, railroads, and aircraft. Construction activity shall be limited to 7:00 am to 7:00 pm, seven days per week, except for emergency repairs.
- C. *Heat.* Any activity or the operation of any use that produces heat shall be conducted so that no heat from the activity or operation is detectable at any point off the lot on which the use is located.
- D. *Lighting and Glare.*
  - 1. All exterior lighting must meet the requirements of § 16.60.020 (Exterior Lighting).
  - 2. Any commercial or industrial activity or operation that produces glare or flickering of intense light sources shall be shielded, screened, or conducted so that no glare from the activity or operation is detectable, and flickering does not cause a nuisance, at any point off the lot or parcel on which the use is located.
- E. *Dust and Air Pollution.* Dust and other types of air pollution, borne by the wind from sources, such as storage areas, yards, driveways and parking areas, conveying equipment, and the like, within lot boundaries, shall be kept to a minimum by appropriate landscape, screening, sheltering, paving, fencing, wetting, collecting, or other acceptable means.
- F. *Discharge and Disposal of Radioactive and Hazardous Waste.* The discharge of fluid and the disposal of solid radioactive and hazardous waste materials shall comply with applicable federal, state, and local laws and regulations governing such materials or waste. No operation that produces radioactive or hazardous waste material may commence without prior notice to the County. Notice shall be given at least three (3) weeks before the operation is commenced. Radioactive and hazardous material waste shall be transported, stored, and used in conformance with all applicable federal, state, and local laws.
- G. *Odors.* Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public, or which interferes unreasonably with the comfort of the public, shall be removed, stopped, or modified so as to remove the odor.
- H. *Toxic Substances.* The storage, handling, or transport of toxic substances shall comply with federal, state, and local regulations.
- I. *Fire and Explosion Hazards.* Materials that present potential fire and explosion hazards shall be transported, stored, and used only in conformance with all applicable



federal, state, and local regulations.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 15.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.60.050 STREET NAMING AND NUMBERING.**

##### *A. General.*

1. Street names shall be assigned at the time of subdivision in accordance with the standards of this section and shall be designated on the recorded final plat as specified in § 16.76.070 (Subdivision Street Naming And Addressing).

2. Street numbers shall be assigned at the time of subdivision in accordance with the standards of this section and shall be designated on the recorded final plat as specified in § 16.76.070 (Subdivision Street Naming And Addressing).

3. Unplatted metes and bounds parcels will be assigned an address by the Zoning Enforcement Officer at the time they are developed with a principal structure. An address will consist of a number, based on § 16.60.050.C. (Address Numbering), and a street name, based on county records of street names.

4. Assignment of a city name or ZIP code is the responsibility of the U.S. Postal Service.

5. Only one address will be assigned to each lot or parcel with a principal building. Additional address numbers will not be assigned when more than one principal building or use is on a property, nor to accessory structures. A property owner with multiple principal buildings or uses may create and use additional addressing information, such letters or numbers for suites, buildings, units, etc., so long as it is acceptable to the U.S. Postal Service and the information is provided to the appropriate emergency response agencies.

B. *Street Naming.* All streets shall be named and, in the case of branching streets, the line of departure from one street to another shall be shown. Each street shall have a unique name that is not a duplicate of any other in the same or any adjoining McHenry County township. The use of streets with the same name differentiated only by compass direction or by street type (i.e., street, lane, court, road, circle, etc.) are prohibited. However, a loop-type road needs only one street name for the entire loop.

C. *Address Numbering.* Even numbers are assigned to locations on the north or east sides of all streets and roads, and odd numbers are assigned to all locations on the south or west sides of all streets and roads.

D. *Baselines.* The street and road addressing system has two (2) baselines. The first runs north and south along the east edge of the county bordering on Lake County, Illinois. The second runs east and west across the county at the north edges of Marengo, Seneca, Dorr, and Nunda Townships and therefore along the south edges of Dunham, Hartland, Greenwood, and McHenry Townships.

##### *E. Division of Miles into "Blocks" or Tenth-Mile Segments.*

1. Each mile (section) out from the baseline will be divided into ten (10) equal segments or blocks. The first block or tenth-mile (0.1-mile) segment within that mile will be designated as the one hundred (100) block. Each block will include five hundred and twenty-eight (528) feet of street or road frontage if the road or street is perpendicular to the baseline.

2. The second block will be designated as the two hundred (200) block, the third block as the three hundred (300) block, etc. through the tenth, which will be the one thousand (1000) block.

##### *F. Assigning Address Numbers to Property.*

1. On roads and streets that are perpendicular to the baseline, a number will be assigned to each fifty-two and eight-tenths (52.8) feet of each tenth-mile (0.1-mile) segment except in cases of stores or similar situations where each possible address would include less frontage.

2. More or fewer numbers should be used when necessary in order for block numbering to change at cross roads or streets.

3. The smallest odd house number in a block will be one (1). The smallest even house number will be two (2).

4. In cases where lots have more than fifty-two and eight-tenths (52.8) feet of frontage, numbers will be omitted or skipped. In the case of lots with one hundred (100) feet of frontage, for instance, every other number is used. Consecutive numbers shall not be skipped arbitrarily.

5. Where a street or road runs at an angle or is curved, the first consideration is whether it runs predominantly north and south or east and west. It will then be numbered accordingly, and a number will be assigned to each fifty (50) running feet of frontage on the street or road, and the block number if changed upon crossing the tenth-mile (0.1-mile) segment.

6. Where a street or road in a subdivision makes a loop that intersects with the same street, the numbers shall be continuous from one end to the other.

##### *G. First Mile Addresses.*

1. Numbers will continue progressively so that normally final numbers in the first mile and in the tenth-mile (0.1-mile) segment of that mile would be 1019 and 1020.

2. On a curving and diagonal road or street, the numbers would continue beyond 1019 and 1020 as needed.

##### *H. Second Mile Addresses.*

1. Numbers in the first block of the second mile from the baseline will begin 1101 and 1102 and finish with 1119 and 1120.

2. Numbers in the second block will begin with 1201 and 1202 and progress through each block or tenth-mile (0.1-mile) segment and until numbers in the tenth block would normally end with 2019 and 2020.

I. *Third through Tenth Mile Addresses.* In the third mile from the baseline, numbers will begin 2101 and 2102 and normally end with 3019 and 3020. Addresses would progress in this way through the tenth mile, which would begin with 9101 and 9102 through 10019 and 10020.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 15.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.60.060 [RESERVED.]**

## **CHAPTER 16.64: OFF-STREET PARKING AND LOADING**

### Section

16.64.010	Purpose
16.64.020	General applicability
16.64.030	Parking lot and structure construction and design standards
16.64.040	Location of required off-street parking spaces
16.64.050	Pedestrian pathway
16.64.060	Required stacking spaces
16.64.070	Computation of parking requirements
16.64.080	Required off-street vehicle parking
16.64.090	Permitted parking alternatives
16.64.100	Required off-street bicycle parking

**§ 16.64.010 PURPOSE.**

The off-street parking and loading regulations of this chapter are intended to provide accessible, attractive, secure, and well-maintained off-street parking and loading areas with the appropriate number of spaces for the use and occupancy of the property.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.64.020 GENERAL APPLICABILITY.**

A. *Existing Off-Street Parking Facilities.* Parking facilities include access, driveways, aisles, parking spaces, stacking spaces, bicycle parking, loading spaces, and parking structures.

1. Existing uses shall not be required to provide additional parking to meet the Ordinance requirements. The existing parking facilities may not be reduced below the requirements of this Ordinance, without obtaining a variance. If the existing parking facilities do not meet the requirements of this Ordinance, it may not be further reduced, without obtaining a variance.

2. If a building permit was applied for prior to the effective date of this Ordinance the number of off-street parking and loading spaces shall be provided in the amount required for the issuance of said building permit, regardless of the requirements of this Ordinance.

3. Parking facilities lost due to public roadway widening are not required to be replaced and shall be deemed conforming for the existing use.

4. Existing unpaved parking may remain unpaved.

B. *Additions or Expansions.* When a use is increased through the addition of a dwelling unit, floor area, seating capacity or other applicable unit of measurement, off-street parking spaces and other parking facilities shall be provided in proportion to that increased intensity. Deficiencies in the number of parking spaces provided for the existing structure shall be allowed to remain.

C. *Change in Use.* When a structure or land changes to a new use, the new use shall meet the standards for parking facilities as required by this Ordinance.

D. *Prohibition on the Use of Off-Street Parking and Loading Spaces.*

1. All parking spaces required by this Ordinance shall be used solely for the parking of motor vehicles and bicycles, as required. No temporary or permanent storage of vehicles for sale or hire is permitted. No required parking or loading space may be used for outdoor storage, unless specifically permitted by this Ordinance.

2. No motor vehicle repair work or service of any kind is permitted in any parking spaces.

3. No space allocated to any off-street loading space may be used to satisfy the requirement for any off-street parking space or access aisle, or portion thereof. Conversely, the area allocated to any off-street parking space may not be used to satisfy the replacement for any off-street loading space or portion thereof.

E. *Accessible Parking Requirements.* With the exception of single-family and two-family dwellings, all off-street parking facilities shall provide parking spaces for disabled persons. The number of accessible parking spaces is included in the total number of required parking spaces and shall be in accordance with the applicable requirements of the Illinois Accessibility Code, as amended from time to time, and all additional governing codes and applicable laws. Such spaces shall comply with the design standards presented in the Illinois Accessibility Code and identified by a sign and pavement markings indicating parking for the disabled only.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.64.030 PARKING LOT AND STRUCTURE CONSTRUCTION AND DESIGN STANDARDS.**

A. *Site Plan.* A site plan shall be submitted when there is an addition, expansion, or change in use on a property or within a building (see §§16.64.020B.-C.). The site plan must be drawn to scale and show required parking facilities as required by this Ordinance, regardless if paved surfacing is required (see § 16.64.030E.), as well as any planned overflow parking areas, landscaping, and screening (see § 16.64.030H.).

B. *Time of Completion.* Parking facilities required by this Ordinance shall be completed prior to occupancy of the use served.

C. *Stormwater Management.*

1. All parking facilities shall comply with the Stormwater Management Ordinance.

2. Parking surfaces and parking lot access drives shall not be more than six (6) inches below the base flood elevation.

D. *Minimum Dimension of Off-Street Parking Facilities.* All off-street parking lots and structures shall provide appropriate means of vehicular access in a manner that limits interference with traffic movement and in a way that permits vehicles to enter or leave the lot or structure without having to move any other vehicle or back onto the street. Parking facilities shall be designed in accordance with Figure 16.64-1: Off-Street Parking Dimensions.

1. All required parking facilities shall have vehicular access from a street, alley, driveway, or cross-access easement connection.

2. A new access point, expanded access point, or changes in use require an access permit from the applicable township highway commissioner, McHenry County Division of Transportation, or the Illinois Department of Transportation, as applicable. No building permits will be issued until all applicable access permits have been obtained.

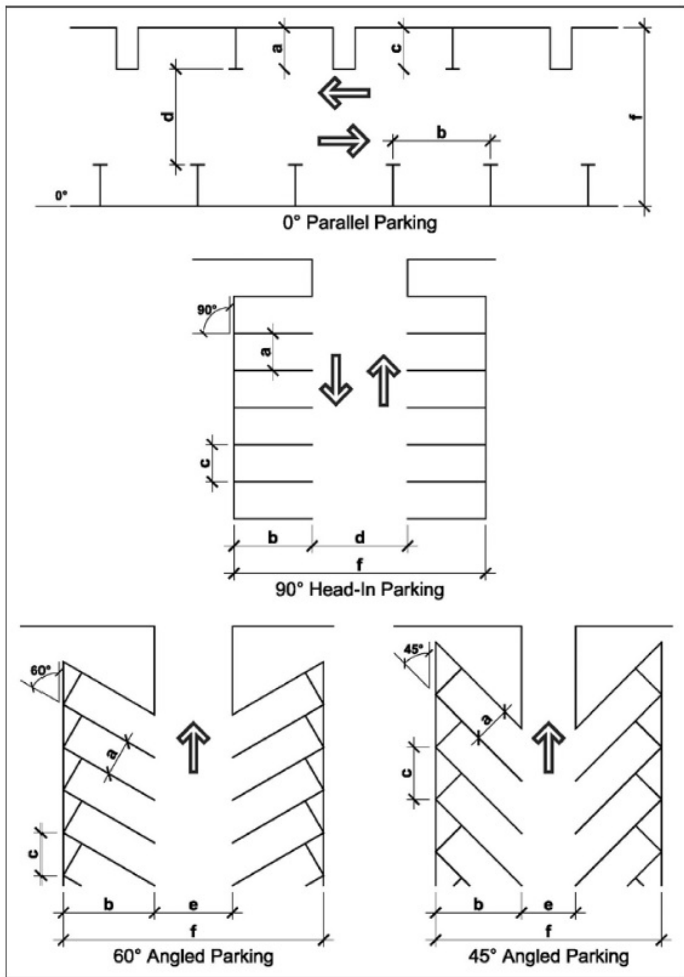
3. Driveways shall be a minimum of twelve (12) feet in width for one-way drives, and a minimum of twenty-four (24) feet in width for two-way drives in the R-3 zoning district, commercial zoning districts, and the office and industrial zoning districts.

4. All off-street parking spaces shall be accessed by a drive aisle that provides adequate means of vehicular access to the space.

5. For lots over twenty (20) parking spaces, the stall width on no more than thirty percent (30%) of parking spaces, other than parallel parking spaces, may be reduced from nine (9) feet to eight (8) feet provided that such spaces are identified as being restricted to compact cars.

6. All parking spaces shall have a minimum vertical clearance of seven (7) feet.

**Figure 16.64-1: Off-Street Parking Dimensions**



Parking Angle x°	MINIMUM DIMENSIONS						
	Stall Width (a)	Stall Depth (b)	Skew Width (c)	Aisle Width Two-Way (d)	Aisle Width One-Way (e)	Overall Module Two-Way (f)	Overall Module One-Way (f)
0° (Parallel)	9.5'	18'	9.5'	24'	12'	43'	31'
90° (Head-In)	9'	18'	9'	24'	20'	60'	56'
60°	9'	21'	10.4'	-	18'	-	60'
45°	9'	20'	12.7'	-	12.5'	-	52.5'

E. *Surfacing.* Required parking facilities shall be paved with a dustless all-weather material, such as concrete, asphalt/blacktop, or brick/stone pavers, and may consist of a pervious material, subject to approval by the Zoning Enforcement Officer. Paving is not required for the following:

1. Parking facilities within the agricultural or residential zoning districts (excluding the R-3 District) except as required by federal or state regulations (e.g., the Illinois Accessibility Code) or when the property is used to satisfy required parking facilities requirements from another lot or parcel in a non-exempted zoning district.
2. Parking facilities for temporary uses.
3. Existing unpaved parking facilities, as of the effective date of this Ordinance.
4. Overflow parking areas reserved for parking demands in excess of required parking space minimums.

F. *Pavement Marking.* Paved parking facilities of fifteen (15) or more spaces shall delineate parking spaces with paint or other permanent materials, which shall be maintained in clearly visible condition. This Section applies whether the parking facilities are required to be paved by this Ordinance or have been paved voluntarily.

G. *Curbing and Wheel Stops.* Paved parking facilities of fifteen (15) or more spaces shall provide wheel stops or curbing to prevent vehicles from damaging or encroaching upon any adjacent sidewalk or landscape. Curbing shall be at least six (6) inches in height. This Section applies whether the parking facilities are required to be paved by this Ordinance or have been paved voluntarily.

H. *Parking Lot Landscape.* Parking lot landscape, when required by this Ordinance, must meet all requirements of §16.60.030(Permitted Encroachments).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.64.040 LOCATION OF REQUIRED OFF-STREET PARKING SPACES.**

Unless otherwise permitted below, all off-street parking spaces shall be located on the same lot as the use served.

- A. In the agricultural and residential zoning districts, parking shall be located on the same lot as the use served, or on a contiguous lot if owned by the same owner upon completion of a deed restriction.
- B. In the commercial zoning districts, all parking lots and structures shall be located on the same lot as or within four hundred (400) feet of the use served. If the lot is a contiguous lot owned by the same owner, the parcels shall be deed restricted. If the parcels are in separate ownership, cross access easements shall be provided.
- C. In the office or industrial zoning districts, parking facilities shall be located on the same lot as or within six hundred (600) feet of the use served. If the lot is a contiguous lot owned by the same owner, the parcels shall be deed restricted. If the parcels are in separate ownership, cross access easements shall be provided.
- D. When a parking lot is not located on the same site as the use served, a pedestrian pathway must be provided when located on the same side of the street or a pedestrian crosswalk when located across the street.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.64.050 PEDESTRIAN PATHWAY.

When a parking lot is not located on the same site as the use served, a pedestrian pathway must be provided when located on the same side of the street or a pedestrian crosswalk when located across the street.

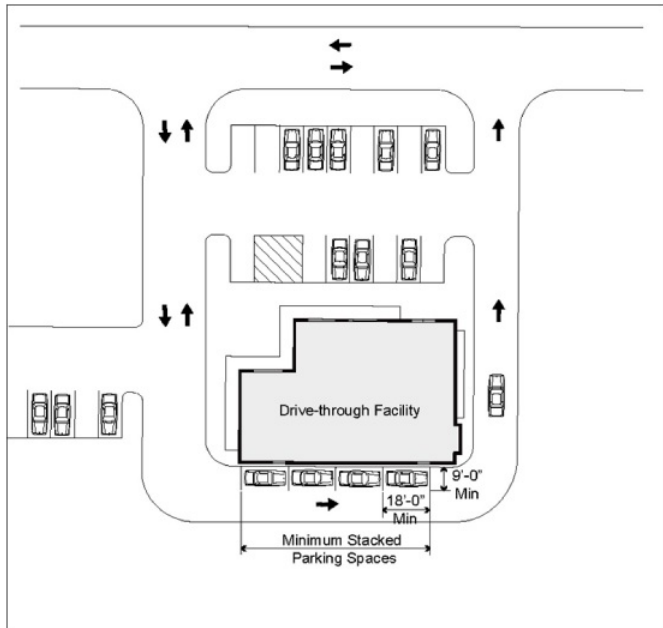
(Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.64.060 REQUIRED STACKING SPACES.

Every drive-through facility and car wash shall provide a minimum of four (4) stacking spaces per bay or lane, unless otherwise required by this Ordinance. (See Figure 16.64-2: Stacking Spaces) Stacking spaces shall be:

- A. A minimum of nine (9) feet in width, as measured from the outermost point of any service window to the edge of the driveway, and eighteen (18) feet in length.
- B. Placed in a single line leading to the drive-through facility.
- C. Located so that, when in use, they do not obstruct ingress or egress to the site and do not obstruct access to required parking or loading spaces.
- D. Stacking spaces shall begin behind the vehicle parked at a last point of service, such as a service window or car wash bay.

Figure 16.64-2: Stacking Spaces



(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.64.070 COMPUTATION OF PARKING REQUIREMENTS.

The total number of required parking, loading and bicycle spaces is based upon the requirements for the use of the lot. In computing the number of off-street parking, loading, or bicycle spaces required by this Ordinance, the following standards apply:

- A. When more than one (1) principal use occupies the same lot or parcel or structure, the number of required spaces is the sum of the separate requirements for each use unless a collective parking alternative is used.
- B. Uses ancillary to the main function of the principal use are not subject to separate parking requirements. To be considered ancillary, such uses shall be subordinate in square footage to the area for the principal use, shall be supportive in function to the principal use, such as offices or eating establishments for employees or patrons, and generally operate only during the hours of operation of the principal use. The calculation used for the parking requirement, such as gross floor area or maximum capacity, includes the area for ancillary uses.
- C. A fraction of a space is counted as one (1) parking or loading space.
- D. In places of assembly in which patrons or spectators occupy benches, pews, or similar seating facilities, each twenty-four (24) inches of such seating facility is counted as one (1) seat for the purpose of determining the requirement for off-street parking facilities. Floor area of a prayer hall is counted as one (1) seat per marked prayer mat space or one (1) seat for every five (5) square feet in the prayer hall if prayer mat spaces are not marked.
- E. Except as otherwise specified, parking or loading spaces required on an employee basis is based on the maximum number of employees normally present on the premises at any one time. When the determination of the number of parking spaces is based on the number of employees, the owners and managers are counted as employees.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.64.080 REQUIRED OFF-STREET VEHICLE PARKING.

A. The minimum number of off-street parking spaces to be provided for the designated uses is as follows in Table 16.64-1: Required Off-Street Parking. Table 16.64-1 lists parking requirements for the uses listed within the districts. In some cases, uses that are considered part of a generic use category are listed with specific parking requirements. These specific uses are listed only for the purposes of this section and do not indicate whether such uses are permitted or conditional uses within any district. Any use not listed within Table 16.64-1 will have a parking requirement of one (1) space per five hundred (500) square feet of gross floor area.

B. In any parking lot of twenty (20) or more spaces, one (1) space designed, reserved, and designated for a motorcycle shall be provided for each twenty (20) automobile spaces up to a maximum of five (5) motorcycle spaces. Motorcycle parking spaces shall have minimum dimensions of four (4) feet by seven (7) feet and do not count as parking spaces for the purpose of this Ordinance.

C. Parking for multi-tenant shopping or strip centers is calculated as three (3) spaces per one thousand (1,000) square feet of gross floor area, rather than by the individual uses.



**TABLE 16.64-1: REQUIRED OFF-STREET PARKING**

*sf = square feet // GFA = gross floor area*

USE	PARKING REQUIREMENT
<b>TABLE 16.64-1: REQUIRED OFF-STREET PARKING</b> <i>sf = square feet // GFA = gross floor area</i>	
USE	PARKING REQUIREMENT
Adult Use	1 per 250sf GFA
Agricultural Employee Housing	1 per dwelling unit
Agricultural Implement Sales and Service	1 per 500sf GFA - including outdoor sales and display
Agriculture	No Minimum
Agriculture Produce Processing	No Minimum
Agritourism	1 per employee
Airport, Commercial/Reliever	1 per 1,000sf GFA of terminal building
Alcoholic Beverages - Package Sales	1 per 250sf GFA
Alcoholic Beverages - Consumption On-Premises	1 per 50sf GFA
Amphitheater	1 per 3 persons based on maximum capacity
Amusement Facility, Indoor	1 per 3 persons based on maximum capacity
Amusement Facility, Outdoor	1 per 3 persons based on maximum capacity
Amusement Park	1 per 3 persons based on maximum capacity
Animal Care Shelter	1.5 per exam room + 1 per 100sf of waiting area
Arena	1 per 3 persons based on maximum capacity
Art Gallery	1 per 500sf GFA
Arts Studio	1 per 250sf of studio/classroom area
Asphalt/Concrete Batch Facility	1 per 500sf GFA - indoor space only
Athletic Facility, Indoor/Outdoor	1 per 250sf GFA
Auction House	1 per 500sf GFA
Auto Dealership	1 per 500sf GFA - excluding outdoor display areas
Auto Rental	1 per 500sf GFA - excluding outdoor and indoor vehicle storage areas
Auto Repair, Major/Minor	5 per service bay
Bed and Breakfast	2 + 1 per guestroom
Boarding House	1 per housekeeping unit, or, 1 per 2 adult residents, whichever is greater
Broadcasting Studio	1 per 2 employees on maximum shift
Campground	2 per campsite
Cannabis Craft Grower	No Minimum
Cannabis Cultivation Center	No Minimum
Cannabis Dispensary	1 per 200sf of GFA
Car Wash	4 per bay
Cemetery	1 per 4 seats in chapel + 1 per 500sf of office space
Club/Lodge	1 per 3 persons based on maximum occupancy
Community Center	1 per 500sf GFA
Conservation Area	No Minimum
Country Club	Cumulative - determined by sum of requirements for individual uses (golf course, driving range, restaurant, etc.)
Crematorium	1 per 250sf of office space
Cultural Facility	1 per 500sf GFA
Currency Exchange	1 per 250sf GFA
Day Camp	1 per 250sf of meeting hall
Day Care Center	1 per 500sf
Day Care Home	1 per 2 staff members that do not reside onsite
Drive-in Theater	No Minimum
Dwelling, Ancillary	1 per dwelling unit
Dwelling, Mixed Use	2 per dwelling unit
Dwelling, Multifamily	2 per dwelling unit + 1 space per 3 dwelling units
Dwelling, Single Family	2 per dwelling unit
Dwelling, Two-Family	2 per dwelling unit
Earth Extraction Mining	No Minimum
Educational Facility: College/University	5 per classroom + 1 per 5 students based on max. enrollment
Educational Facility: Elementary	4 per classroom
Educational Facility: High School	4 per classroom + 1 per 5 students based on max. enrollment
Educational Facility: Technical	5 per classroom + 2 per 5 students based on max. enrollment
Exotic Animal Breeding & Training	1 per 2 staff members that do not reside onsite
Fairgrounds	No Minimum
Farm Chemical & Fertilizer Sales	No Minimum
Farmers Market	1 per vendor
Farmstand	No Minimum
Farrier	1 per 2 staff members that do not reside onsite

Feed, Tack, Grain, and Seed Sales	1 per 500sf GFA - including outdoor sales and display
Financial Institution	1 per 200sf GFA + 5 stacking spaces per drive-through lane
Flea Market	1 per vendor
Food Processing	1 per 500sf GFA - indoor space only
Freight Terminal	1 per 500sf of indoor space + 1 per 10,000sf of terminal space
Funeral Home	1 per 4 seats in chapel + 1 per 500sf of office space
Garden Center	1 per 250sf GFA - including outdoor sales and display
Gas Station	1 per pump + 1 per 500sf of accessory retail area
Golf Course/Driving Range - Commercial	2 per tee (driving range) + 3 per hole (golf course)
Government Facility	1 per 250sf GFA
Grain Elevator, Commercial	1 per 500sf GFA - indoor space only
Greenhouse Business	1 per 500sf GFA - indoor space only
Group Home	1 per 2 residents (including live-in care providers/staff)
Halfway House	1 per 2 occupants
Heavy Retail Sales and Service	1 per 500sf GFA
Heliport	1 per 1,000sf GFA of terminal building
Homeless/Domestic Violence Shelter	1 per 2 employees on maximum shift plus .5 per bed
Horse Arena	No Minimum
Horse Racing Spectator Sport	1 per 3 persons based on maximum capacity
Horse Stable	No Minimum
Hospital	3 per bed
Hotel/Motel	1 per room + 2 per 3 employees
Household Hazardous Waste Collection	1 per 500sf GFA - indoor space only + 10 spaces if customer drop-off included
Industrial, Heavy	1 per 500sf GFA - indoor space only
Industrial, Light	1 per 500sf GFA - indoor space only
Kennel, Commercial	1 per 5 animals, based on capacity
Laboratory	1 per 250sf GFA
Landing Area Restricted	No Minimum
Landscape Business	1 per 250sf of office space
Landscape Waste Composting Facility	1 per 500sf GFA - indoor space only
Lumber yard	1 per 500sf GFA - indoor space only
Marina	1 per 2 slips
Massage Therapy Center	2 per therapist room
Medical/Dental Clinic	3 per exam room
Mini-Warehouse	1 per 25 storage units
Mobile Home Park	1 per home site
Nursery - Commercial	1 per 500sf GFA - indoor space only
Off Premise Commercial Advertising Sign	No Minimum
Office	3 per 1,000sf GFA
Offsite Services Business	1 per 500sf GFA
Park	No Minimum
Parking Lot	No Minimum
Parking Structure	No Minimum
Passenger Terminal	1 per 500sf of terminal space
Pawn Shop	1 per 250sf GFA
Personal Service Establishment	1 per 200sf of public use area
Place of Worship	1 per 3 seats
Pollution Control Facility	1 per 500sf GFA - indoor space only
Poultry & Small Animal Processing	1 per 500sf GFA - indoor space only
Power Production	No Minimum
Printing Establishment	1 per 500sf GFA - indoor space only
Public Safety Facility	1 per 250sf GFA - excluding vehicle storage areas
Public Safety Training Facility	1 per 250sf of office space
Reception Facility	1 per 4 persons based on maximum capacity
Recreational Vehicle Sales	1 per 250sf GFA - excluding outdoor display areas
Recycling Collection Center	1 per 500sf GFA - indoor space only + 10 spaces if customer drop-off included
Recycling Processing Facility	1 per 500sf GFA - indoor space only + 10 spaces if customer drop-off included
Residential Care Facility	1 per 2 employees on maximum shift plus the following based on facilities: <i>Independent Living: 1 per bed</i> <i>Assisted Living: .5 per bed</i> <i>Nursing Care: .25 per bed</i>
Resort	Cumulative - determined by sum of requirements for individual uses (hotel, golf course, driving range, restaurant, etc.)
Restaurant	1 per 50sf of dining/ordering area
Retail Goods Establishment	1 per 200sf of GFA
Salvage Yard	1 per 500sf GFA - indoor space only
Sawmill	1 per 500sf GFA - indoor space only
Shooting Range, indoor/outdoor	3 per stall
Storage Yard	1 per 250sf GFA - indoor space only
Tower	No Minimum

Vacation Rental	1 per unit
Veterinary Clinic (Small or Large Animal)	3 per exam room
Warehouse	1 per 20,000sf of warehouse space + 1 per 250sf of office space
Well, oil, gas, and water commercial	No Minimum
Wholesale Establishment	1 per 20,000sf of warehouse space + 1 per 250sf of office space
Wind Energy	No Minimum
Winery/Brewery/Distillery, Accessory or Standalone	1 per 60sf of tasting room/restaurant and retail area
Zoo	1 per 2,000sf GFA

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.8; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018 ; Ord. O-201911-ZBA-057, passed 11-19-2019)

**§ 16.64.090 PERMITTED PARKING ALTERNATIVES.**

A. *Collective Parking.* Off-street parking spaces for separate uses may be provided collectively if the aggregate number of spaces provided is not less than the sum of the spaces required in Table 16.64-2: Collective Parking Calculation. Table 16.64-2 is applied in the following manner:

1. The required number of spaces for each use is calculated according to Table 16.64-1: Required Off-Street Parking.
2. The required number of spaces for each use is then applied to the percentages for each time, according to the appropriate land use category, in Table 16.64-2 to determine the number of required spaces. This is done for each time category.
3. The numbers are sum for all land uses within each time category and the highest sum total in a time category is the required number of spaces.

<b>TABLE 16.64-2: COLLECTIVE PARKING CALCULATION</b>						
<b>LAND USE</b>	<b>Weekday</b>			<b>Weekend</b>		
	<b>Mid-7 am</b>	<b>7 am-6 pm</b>	<b>6 pm-Mid</b>	<b>Mid-7 am</b>	<b>7 am-6 pm</b>	<b>6 pm-Mid</b>
<b>Residential</b>	100%	55%	85%	100%	65%	75%
<b>Commercial</b>	0%	100%	80%	0%	100%	60%
<b>Educational Facility</b>	0%	100%	50%	0%	0%	0%
<b>Place of Worship</b>	0%	80%	10%	20%	100%	20%
<b>Restaurant</b>	50%	70%	100%	45%	70%	100%
<b>Hotel/Motel</b>	100%	65%	90%	100%	65%	80%
<b>Movie Theater</b>	0%	70%	100%	5%	70%	100%
<b>Office</b>	5%	100%	5%	0%	10%	10%
<b>Industrial</b>	5%	100%	5%	0%	60%	10%

4. The Zoning Enforcement Officer may approve the provision of fewer collective parking spaces based on specific data regarding the hours of operation and parking demands of the individual uses.

5. The users of the collective parking arrangement record an agreement to share parking facilities and cross access easements, subject to approval by the Zoning Enforcement Officer. A copy of the recorded agreement and cross access easements shall be submitted to the Zoning Enforcement Officer.

6. The off-site parking facilities are located within six hundred (600) feet of the lot line of the use or structure served.

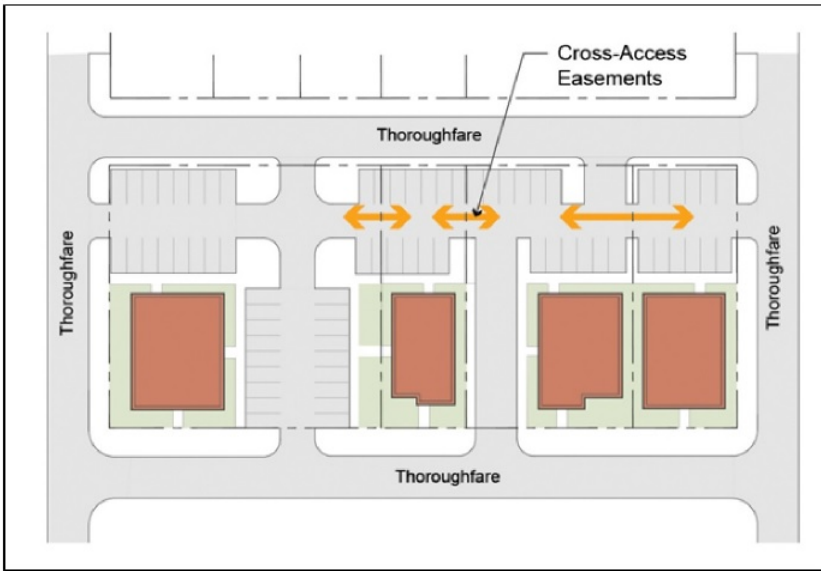
B. *Land Banked Future Parking.* Land banking allows for designating a portion of land on a site that would be required for parking to be held and preserved as open space, rather than constructed as parking. The land banking of up to twenty-five percent (25%) of the required parking spaces may be approved through the site plan review process, subject to the following.

1. Sufficient evidence is provided by the applicant that supports the reduced parking needs.
2. The area proposed for land banking of parking spaces shall be an area suitable for parking at a future time.
3. Landscape of the land banked area shall be in full compliance of the zoning regulations and, at a minimum, landscaped with live groundcover. Additional landscape may be required.
4. The land banked area cannot be used for any other use and shall be part of the same zoning lot and all under the same ownership.
5. As part of the site plan review process, the applicant shall show the area to be banked on the site plan and marked as "Land Banked Future Parking."
6. The Zoning Enforcement Officer, based on evidence that the provided parking is insufficient to meet the parking demand for the use, may require the construction of all or part of the required parking within the land banked area.

C. *Cross-Access Easements.*

1. Adjacent non-residential uses that possess dedicated parking areas are encouraged to provide a cross-access drive to allow circulation between sites. Property owners are required to pursue cross-access with neighboring property owners at the time of site plan review. If cross-access will not be provided, the County shall require that the property owner provide proof that adjacent property owners have been contacted in writing regarding the provision of cross-access. (See Figure 16.64-3: Cross-Access Easement)

**Figure 16.64-3: Cross-Access Easement**



2. Joint use driveways and cross-access easements shall incorporate the following:
  - a. A minimum width of twenty-four (24) feet to ensure two-way travel aisles to accommodate automobiles, service vehicles, and loading vehicles.
  - b. Bump-outs and other design features to make it visually obvious that the abutting properties are tied together.
  - c. A unified access and circulation plan for coordinated or shared parking areas.
3. Pursuant to this section, property owners who establish cross-access easements shall:
  - a. Record an easement allowing cross-access to and from properties served by the joint use driveways and cross-access easement.
  - b. Record a joint maintenance agreement defining the maintenance responsibilities of each property owner.

D. *On-Street Parking.* On-street parking spaces are those that are within a road right-of-way. They may be substituted for required off-street parking when located in a Legacy Neighborhood Overlay District, on a street with a posted speed limit of thirty-five (35) miles-per-hour or less, and not prohibited by the applicable road jurisdiction(s), which may have additional requirements.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.9; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.64.100 REQUIRED OFF-STREET BICYCLE PARKING.**

The Zoning Enforcement Officer may vary or waive the Off-Street Bicycle Parking requirements if bicycle access to the site is determined to be impractical or unsafe.

A. *Design.*

1. Bicycle parking facilities shall provide racks to which the bicycle may be locked by the user, or enclosed lockers. Structures that require a user-supplied locking device shall be designed to accommodate U-shaped locking devices.
2. If required bicycle parking facilities are not visible from the street, signs shall be posted indicating their location.
3. Areas used for required bicycle parking shall be paved and drained to be reasonably free of mud, dust, and standing water, and shall be well-lit.

B. *Location.*

1. All required bicycle spaces shall be located on the same lot as the use served and shall be separated from motor vehicle traffic.
2. Required bicycle parking for multifamily dwellings may be provided in garages, storage rooms, and other resident-accessible, secure areas. Space within dwelling units or on balconies may not be counted toward satisfying bicycle parking requirements.

C. *Required Number of Bicycle Spaces.*

1. Where off-street parking facilities are provided, the number of bicycle parking spaces shall be provided as indicated in Table 16.64-3: Required Bicycle Spaces.

<b>TABLE 16.64-3: REQUIRED BICYCLE SPACES</b>	
<b>USE</b>	<b>REQUIRED BICYCLE SPACES</b>
Multifamily Dwelling	1 per 10 dwelling units
Retail Goods Establishment, Personal Services Establishment, or Office Uses Over 10,000sf in GFA	1 per 15 parking spaces
Indoor or Outdoor Amusement Facility	1 per 15 parking spaces
Educational Facilities (All)	1 per 10 parking spaces
Parking Lot or Structure with 250 or More Vehicle Spaces	25 parking spaces

2. In all cases where bicycle parking is required, a minimum of two (2) spaces is required.
3. After the first fifty (50) bicycle parking spaces are provided, additional bicycle parking spaces required are one-half (½) space per unit listed.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.10; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.64.110 OFF-STREET LOADING REQUIREMENTS.**

A. *Design of Required Off-Street Loading Spaces.*

1. *Location.* All off-street loading spaces shall be located on the same lot as the building or use served. No off-street loading spaces may project into a public right-of-way. No off-street loading space may be located in a front yard.
2. *Dimensions.* All required off-street loading spaces shall be at least twelve (12) feet in width and at least thirty-five (35) feet in length, exclusive of aisle and maneuvering space, and shall have a minimum vertical clearance of at least fourteen (14) feet.

3. *Surfacing.* Loading spaces shall be paved with a dustless all-weather material, such as concrete, asphalt/blacktop, or brick/stone pavers.
4. *Stormwater Management.* All loading spaces shall comply with the Stormwater Management Ordinance. Loading spaces drives shall not be more than six (6) inches below the base flood elevation.

**B. Required Number of Off-Street Loading Spaces.**

1. Off-street loading spaces shall be provided for a each use which requires the receipt or distribution of materials or merchandise by trucks or other vehicles in accordance with Table 16.64-4: Off-Street Loading Requirements. In the case of multi-tenant buildings or mixed-use developments, required loading spaces are calculated on the basis of each individual tenant (for example, if only one (1) commercial tenant of a multi-tenant building is over ten thousand (10,000) square feet, only one (1) loading space is required; if all tenants are under ten thousand (10,000) square feet, no loading is required).

2. In no case is a use required to provide more than five (5) loading spaces.

<b>TABLE 16.64-4: OFF-STREET LOADING REQUIREMENTS</b>		
<b>USE</b>		<b>NUMBER OF SPACES REQUIRED</b>
<b>TABLE 16.64-4: OFF-STREET LOADING REQUIREMENTS</b>		
<b>USE</b>		<b>NUMBER OF SPACES REQUIRED</b>
<b>Commercial and Institutional Use</b>		
	10,000 - 100,000sf of gross floor area	1 loading space
	Each additional 100,000sf of gross floor area	1 loading space
<b>Industrial Use</b>		
	5,000 - 10,000sf of gross floor area	1 loading space
	10,001 - 40,000sf of gross floor area	2 loading spaces
	40,001 - 100,000sf of gross floor area	3 loading spaces
	For each additional 100,000sf of gross floor area	1 loading space

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 16.12; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## CHAPTER 16.68: RESERVED

## CHAPTER 16.72: SIGNS

Section

- 16.72.010 Purpose
- 16.72.020 Permit required
- 16.72.030 Substitution of message
- 16.72.040 Location
- 16.72.050 Sign dimension computations
- 16.72.060 General construction standards
- 16.72.070 Master sign plan required
- 16.72.080 Prohibited signs
- 16.72.090 Exempted signs and devices
- 16.72.100 Temporary structural signs
- 16.72.110 Permanent signs
- 16.72.120 Temporary off-premises commercial advertising messages

**§ 16.72.010 PURPOSE.**

The purpose of this chapter is to establish a framework for a comprehensive system of sign controls governing the display, design, construction, installation, and maintenance of signs that will:

- A. Promote and protect the health, safety, and welfare of the County by ensuring the compatibility of signs with surrounding land uses.
- B. Support and encourage the business and economic climate by enhancing and protecting the orderly and effective display of signs.
- C. Encourage signs that communicate effectively without detracting from the scenic beauty of the countryside.
- D. Protect the public from hazardous conditions that result from the indiscriminate use and placement of signs, structurally unsafe signs, signs that obscure the vision of pedestrians or motorists, and signs that compete or conflict with necessary traffic signals and warning signs.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.72.020 PERMIT REQUIRED.**

It is unlawful for any person to erect, relocate, or structurally alter any permanent sign without first obtaining a sign permit from the County. The Zoning Enforcement Officer may revoke any sign permit where there has been a violation of the provisions of this Ordinance or misrepresentation of fact on the sign permit application.

Exempted signs and devices allowed under § 16.72.090 and temporary signs allowed under § 16.72.100 do not require a sign permit.

Signs that do not require a sign permit may be required to obtain building permits for their structural and electrical components.

Off-premises commercial advertising signs shall also be required to obtain a sign permit in accordance with §16.20.080 (Sign Permit) and also a conditional use permit in accordance and § 16.56.030EE. (Off-Premises Commercial Advertising Sign).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.72.030 SUBSTITUTION OF MESSAGE.**

Any attention getting device, banner, flag, menu board, wall graphic, window graphic, or yard sign that is exempted from this ordinance and any sign that is allowed to be installed or maintained under this ordinance may be utilized to display a noncommercial message under the same standards as the display of a commercial message, unless otherwise allowed or restricted by State laws including, but not limited to, the Illinois Election Code and/or 10 ILCS 5/1-1 *et seq.* as enforced by State Board of Elections or other appropriate officials.

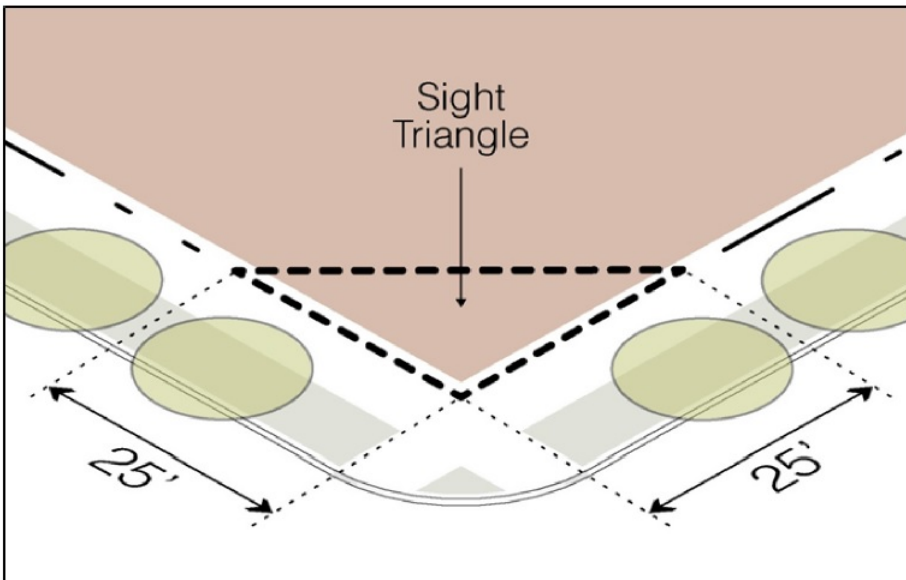
Any sign, flag, attention getting device, banner, menu board, wall graphic, or window graphic that is exempted from this ordinance or that is allowed to be installed or maintained under this ordinance shall not be utilized to display an off-premises commercial advertising message unless it complies with either: 1) Table 16.32-1; Zoning District Uses and § 16.56.030EE. (Off-Premises Commercial Advertising Sign); or § 16.72.120 (Temporary Off-Premises Commercial Advertising Message).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.72.040 LOCATION.**

- A. This ordinance does not regulate the installation or maintenance of signs by public agencies within the right-of-way of a public street or highway or on public property.
- B. Any sign placed within the right-of-way of any public street or highway or on public property without authorization may be removed without notice and disposed of by the local authority having jurisdiction over the street, highway, or property, unless the sign is permitted to be placed on public property by State laws including, but not limited to, the Illinois Election Code and/or 10 ILCS 5/1-1 *et seq.* as enforced by State Board of Elections or other appropriate officials.
- C. No signs may be placed on any property without prior consent of the owner thereof and, where applicable, issuance of a sign permit.
- D. No sign mounted on the exterior of a building may interfere with the operation of any windows, doors, fire escape, or other means of egress.
- E. No sign may be erected within one hundred (100) feet of any railroad grade crossing or placed in such a manner that creates an obstruction of full view of the intersection of a highway and/or railroad right-of-way.
- F. Any ground sign constructed on a corner lot or parcel shall not be erected within the sight distance triangle, which is the triangular area formed by the road easement lines and a line connecting said road easement lines at points twenty-five (25) feet along each road from the point of intersection, as measured at the property line. (See Figure 16.72-1: Sight Triangle)
- G. Any legally established use on a flag lot or land-locked parcel which obtains its primary access through an easement across an adjacent parcel shall be permitted to install and maintain signage on the adjacent parcel at the point of access, provided such signage shall meet all other requirements of this ordinance.

**Figure 16.72-1: Sight Triangle**



(Ord. O-20141 0-10-035, passed 10-14-201 4; Ord. O-201601 -ZBA-00 6, passed 1-19-201 6; Ord. O-20160 3-ZBA-01 0, passed 3-17-2016 , § 18.4; Ord. O-20180 3-ZBA-10 -08, passed 3-19-201 8; Ord. O-20180 8-10-033, passed 8-21-2018)

**§ 16.72.050 SIGN DIMENSION COMPUTATIONS.**

The following principles control the computation of sign dimensions. (See Figure 16.72-2: Measurement of Sign Area, Figure 16.72-3: Computation of Sign Angle for Sign Area and Figure 16.72-4: Measurement of Sign Height)

- A. *Computation of Sign Area.*
  - 1. For signs on a background, the entire area of the background is calculated as sign area, including any material or color forming the sign face and the background used to differentiate the sign from the structure against which it is mounted. Sign area does not include any supports or bracing (see Figure 16.72-2).
  - 2. For signs consisting of freestanding letters or logos, the sign area is calculated as the total area of each square, circle, rectangle or triangle, or combination thereof, that encompasses each individual letter or logo. Sign area does not include any supports or bracing (see Figure 16.72-2).
  - 3. The sign area of a three-dimensional, free-form, or sculptural (non-planar) sign is calculated as fifty percent (50%) of the sum of the area of the four vertical sides of the smallest cube that will encompass the sign (see Figure 16.72-2).
  - 4. If the interior angle between two (2) sign faces is forty-five degrees (45°) degrees or less, the sign area is computed as the area of one (1) face only. If the angle between two (2) sign faces is greater than forty-five degrees (45°), the sign area is computed as the sum of the areas of the two (2) faces (see Figure 16.72-3).

B. *Measurement of Sign Height.* For freestanding signs, height is calculated as the vertical distance measured from the grade of the site where the sign is to be installed or the grade of the roadway, whichever is higher, to the highest point of the sign. Grade is considered the lower of the existing grade prior to construction or the newly established grade after construction (see Figure 16.72-4).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.72.060 GENERAL CONSTRUCTION STANDARDS.**

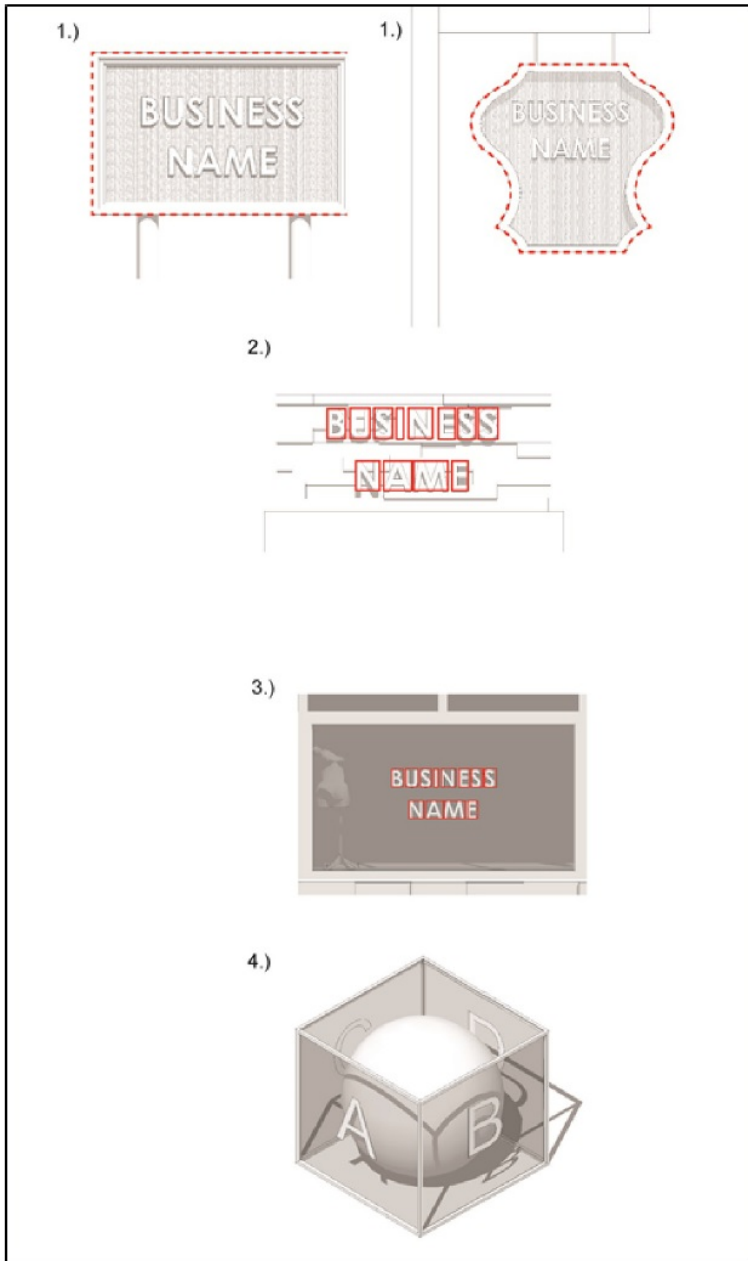
- A. *Construction.* All signs that require a sign permit shall comply with the provisions of this Article and the requirements of the building codes adopted by the County.
- B. *Illumination.*
  - 1. All sign illumination must be fully shielded, and located and directed to prevent the casting of glare or direct light upon roadways and surrounding properties.

2. The sign face of internally illuminated signs must function as a filter (i.e., prevent the direct exposure of any internal bulbs) for any illumination.
3. All external illumination must concentrate the illumination upon the printed area of the sign face.
4. The lighting intensity of any non-digital sign, whether internally or externally illuminated, is limited to a maximum of sixty (60) footcandles when measured with a standard light meter held at a distance of ten (10) inches from the sign face. The lighting intensity of digital signs is regulated under § 16.72.050C.5. (Digital Sign Message Controls) below.

C. *Digital Sign Message Controls.*

1. Each message or image displayed on a digital sign must be static and depicted for a minimum of ten (10) seconds before changing.
2. Blinking, flashing, scrolling, or strobe-light effects are prohibited.
3. Animation and/or streaming video of any type is prohibited.
4. A digital sign shall not be utilized to display an off-premises commercial advertising message without obtaining a conditional use permit for an off-premises commercial advertising sign as required by § 16.56.030EE. (Off-Premises Commercial Advertising Sign).
5. A digital sign must not exceed a maximum illumination of three-tenths (0.3) footcandles above the ambient light level when measured from a distance equal to the square root of the square footage of the sign multiplied by one hundred (100). (Measurement distance =  $\sqrt{\text{sign area} \times 100}$ ). All digital signs must have ambient light monitors installed, which automatically adjust the brightness level based on ambient light conditions.
6. In response to complaints, the Zoning Enforcement Officer may require that the owner of a digital sign submit a certification demonstrating that the sign complies with the maximum illumination standards.
7. All digital signs must be programmed to automatically revert to a full black screen in the event of a malfunction.

**Figure 16.72-2: Measurement of Sign Area**



**Figure 16.72-3: Computation of Sign Angle for Sign Area**

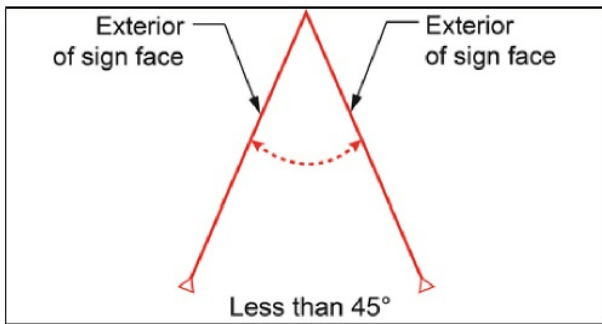
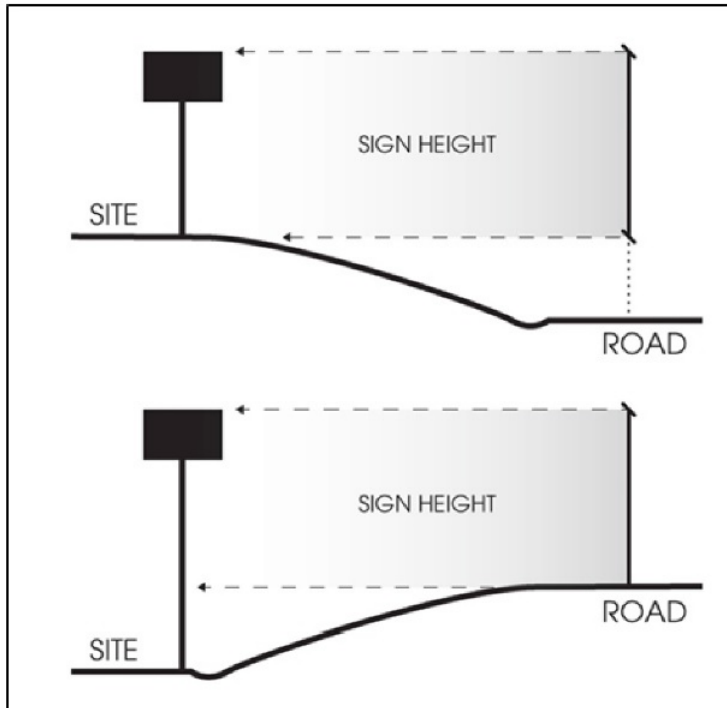


Figure 16.72-4: Measure ment of Sign Height



- D. *Audio.* No sign may emit sounds, including recorded messages and/or music.
- E. *Glass.* Glass forming any part of a sign shall be safety glass, with the exception of neon.
- F. *Lettering.* All letters, figures, characters, or representations in cut-out or irregular form, maintained in conjunction with, attached to, or superimposed upon any sign shall be safely and securely built or attached to the sign structure.
- G. *Identification Tag.* Every sign or other advertising structure shall display the identification tag provided by the County, in a conspicuous place.
- H. *Sign and Premises Maintenance.*
  1. All signs, and the premises surrounding the sign, shall be maintained in a clean and safe condition.
  2. If a sign is unsafe, unsecure, or erected or maintained in violation of the provisions of this Ordinance, the Zoning Enforcement Officer will give written notice to the sign permit holder. If sign permit holder fails to remove or alter the sign to comply with the standards of this Ordinance within 14 calendar days, the Zoning Enforcement Officer may order the sign removed at the property owner's expense in accordance with the enforcement provisions of this Ordinance. The County may remove, without notice, any other sign that is an immediate peril to persons or property.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.72.070 MASTER SIGN PLAN REQUIRED.**

New multi-tenant non-residential structures shall submit a master sign plan for review as part of site plan review.

- A. A master sign plan shall provide for coordinated sign design. All building-mounted signs shall be described on the master sign plan to include, at a minimum, criteria and specifications for general appearance, sign area, lighting, and location.
- B. Signs shall be located at a generally uniform height on the building wall.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.72.080 PROHIBITED SIGNS.**

It is unlawful to erect or maintain the following signs:

- A. *Animated Signs.* Animated signs are prohibited.
- B. *Flashing Signs.* No sign may have blinking or flashing lights, or other illuminating device that has a changing light intensity, brightness or color, traveling/chasing or blinking lights, or rotating beacons. Time and temperature signs and digital signs are not considered flashing signs.
- C. *Moving Signs.* No sign or other advertising structure may have moving, revolving, or rotating parts or visible mechanical movement of any kind. Street clocks with movable hands and rotating barber poles are permitted.
- D. *Signs on Vehicles.* Commercial messages placed or painted on parked vehicles, including trailers and other vehicle attachments, where the primary purpose is to advertise



a product or service, or to direct the public to a business are prohibited.

This section does not prohibit trucks, buses, or other vehicles that are painted with or display a commercial message and that are being operated in the normal course of a business from being parked or stored on any location on any property as permitted by Chapter 16.64 (Off-Street Parking and Loading) provided that the primary purpose of such vehicles is not the display of the commercial message.

E. *Signs that Interfere with Traffic.* Any sign that imitates any official highway marker, traffic marker, traffic sign, or other traffic control device is prohibited.

Any sign placed within the right-of-way of any public street or highway or on public property without authorization may be removed without notice and disposed of by the local authority having jurisdiction over the road, highway, or property.

F. *Signs Not Defined.* Any type of sign, device, board, or graphic not defined in this Ordinance is prohibited.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.8; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.72.090 EXEMPTED SIGNS AND DEVICES.**

A. The following signs and devices are exempt from regulation by this ordinance:

1. A-frame signs.
2. Attention-getting devices.
3. Banners.
4. Blade signs (aka Feather Signs).
5. Flags.
6. Menu boards.
7. Signs placed in the right-of-way of a public street or highway and signs placed on public property by the government agency having jurisdiction over the property.
8. Signs located on private property that are not oriented towards a public right-of-way or public property and which contain a COMMERCIAL MESSAGE or NON-COMMERCIAL MESSAGE that cannot be deciphered from a public right-of-way or public property.
9. Wall graphics.
10. Window graphics.
11. Yard signs.
12. Temporary Nonstructural Signs.

B. Exempted signs and devices may be used to display noncommercial messages under the same standards as the display of a commercial message, unless otherwise allowed or restricted by State laws including, but not limited to, the Illinois Election Code and/or 10 ILCS 5/1-1 *et seq.* as enforced by State Board of Elections or other appropriate officials.

C. Exempted signs and devices shall not be utilized to display an off-premises commercial advertising message unless it complies with either: 1) Table 16.32-1: Zoning District Uses and § 16.56.030EE. (Off-Premises Commercial Advertising Sign); or § 16.72.120 (Temporary Off-Premises Commercial Advertising Message).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.9; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.72.100 TEMPORARY STRUCTURAL SIGNS.**

- A. All uses in all districts are permitted one (1) temporary structural sign per street frontage in addition to the signs allowed in § 16.72.110B. (Ground Signs).
- B. Temporary structural signs must meet the requirements of § 16.72.110B. except as otherwise expressly permitted or restricted by this section.
- C. Temporary structural signs do not require a sign permit. Temporary structural signs may be required to obtain a building permit for their structural or electrical components.
- D. Temporary structural signs may be erected for a limited period of display not exceeding one hundred twenty (120) days and shall be removed following the allowed display period.
- E. Temporary structural signs shall be set back a minimum of five (5) feet from any side lot line and five (5) feet from any front lot line. No part of a temporary structural sign may encroach onto a public right-of-way.
- F. Temporary structural signs located adjacent to roads identified as Regional Transportation Corridors (see Appendix D) are limited to thirty-two (32) square feet in size and ten (10) feet in height.
- G. Temporary structural signs located adjacent to roads not identified as Regional Transportation Corridors (see Appendix D) are limited to sixteen (16) square feet in size and ten (10) feet in height.
- H. Temporary structural signs shall not be internally illuminated and may not include a digital component.
- I. Temporary structural signs may be externally illuminated until 10:00 PM.
- J. No prohibited sign as identified in § 16.72.080 (Prohibited Signs) of this ordinance shall be used as a temporary structural sign.

K. Temporary structural signs may be used to display a noncommercial message under the same standards as the display of a commercial message, unless otherwise allowed or restricted by State laws including, but not limited to, the Illinois Election Code and/or 10 ILCS 5/1-1 *et seq.* as enforced by State Board of Elections or other appropriate officials.

L. Temporary structural signs shall not be utilized to display an off-premises commercial advertising message unless it complies with either: 1) Table 16.32-1: Zoning District Uses and § 16.56.030EE. (Off-Premises Commercial Advertising Sign); or § 16.72.120 (Temporary Off-Premises Commercial Advertising Message).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.10; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.72.110 PERMANENT SIGNS.**

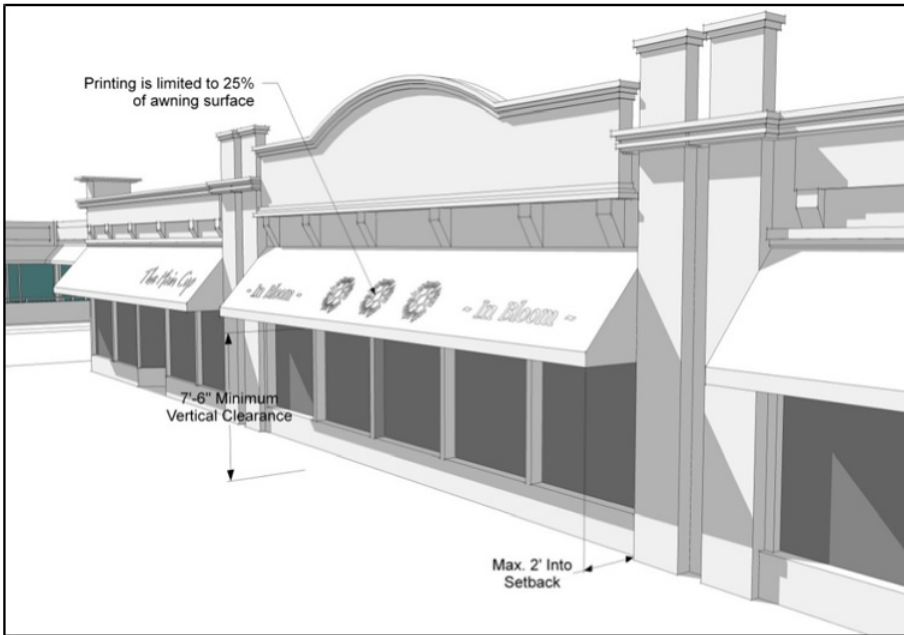
Permit required.

A. *Awnings and Canopies.*

1. Awning and canopy signs are permitted for non-residential uses in the commercial, office, and industrial zoning districts.
2. Printing on any awning or canopy sign is limited twenty-five percent (25%) of the awning surface.
3. Awnings and canopies must comply with the requirements of § 16.60.030 (Permitted Encroachments).
4. Awning and canopy signs shall be constructed durable, weather-resistant material like canvas, canvas-like material, nylon, vinyl-coated fabric, metal, or plastic. Back-lit awnings and canopies are prohibited.
5. When feasible, awnings should generally align with adjacent awnings to maintain a sense of visual continuity. Awnings and canopies shall fit the opening of the building and be positioned so that distinctive architectural features remain visible.

6. The provisions of this section do not apply to signs mounted to the roof sheltering fuel pumps at gas stations. Such signs are regulated as wall signs.
7. Digital sign components are prohibited.

**Figure 16.72-7: Awnings and Canopies**



**B. Ground Signs.**

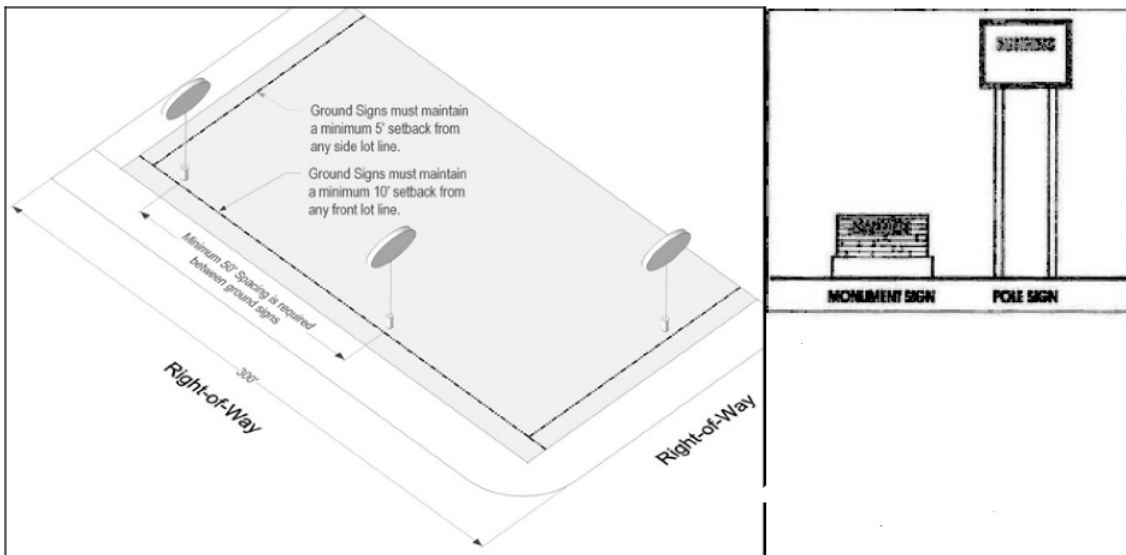
1. Ground signs are permitted for residential subdivisions, multifamily developments, agricultural, and non-residential uses in all districts. In certain districts, as shown in Table 16.72-1: Ground Sign Regulations, only one type of ground sign may be allowed.
2. One (1) ground sign, whether pole or monument, is permitted per street frontage of a lot. Where a lot has over two hundred (200) feet of street frontage, an additional ground sign is permitted for each one hundred (100) feet of street frontage over the initial two hundred (200) feet. A minimum fifty-foot (50') separation is required between ground signs.
3. Ground signs shall be set back a minimum of five (5) feet from any side lot line and ten (10) feet from any front lot line. No part of a ground sign may encroach onto a public right-of-way.
4. Ground monument signs may be internally or externally illuminated. Ground pole signs may only be internally illuminated.
5. A digital sign component is allowed as part of a permitted ground sign as follows:
  - a. Non-residential uses are permitted a digital sign component.
  - b. The digital sign component is limited to seventy-five (75%) of the total sign area.
6. Ground signs shall be constructed of wood, stone, concrete, metal, or plastic.
7. Ground sign permissions, heights, and sign areas are limited as shown in Table 16.72-1.

**TABLE 16.72-1: GROUND SIGN REGULATIONS**

	MONUMENT		POLE	
	MAXIMUM SIGN AREA	MAXIMUM SIGN HEIGHT	MAXIMUM SIGN AREA	MAXIMUM SIGN HEIGHT
<b>TABLE 16.72-1: GROUND SIGN REGULATIONS</b>				
	MONUMENT		POLE	
	MAXIMUM SIGN AREA	MAXIMUM SIGN HEIGHT	MAXIMUM SIGN AREA	MAXIMUM SIGN HEIGHT
<b>Agricultural Zoning Districts</b>				
A-1 District	32sf	6'	40 sf	20'
A-2 District	32sf	6'	40 sf	20'
<b>Residential Zoning Districts</b>				
E-5 District	32sf	6'	Prohibited	Prohibited
E-3 District	32sf	6'	Prohibited	Prohibited
E-2 District	32sf	6'	Prohibited	Prohibited
E-1 District	32sf	6'	Prohibited	Prohibited
R-1 District	32sf	6'	Prohibited	Prohibited
R-2 District	32sf	6'	Prohibited	Prohibited
R-3 District	32sf	6'	Prohibited	Prohibited
<b>Commercial Zoning Districts</b>				
B-1 District	32sf	6'	40 sf	20'
B-2 District	32sf	6'	40 sf	20'
B-3 District	50sf	8'	60 sf	25'
<b>Office and Industrial Zoning Districts</b>				
O District	50sf	8'	60 sf	25'
I-1 District	50sf	8'	60 sf	25'

I-2 District	50sf	8'	60 sf	25'
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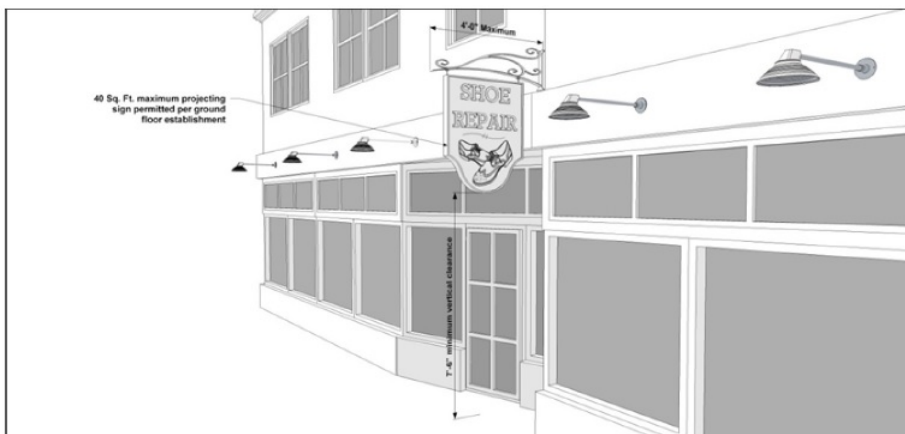
**Figure 16.72-8: Ground Sign**



**C. Projecting Sign.**

1. Projecting signs are permitted for non-residential uses in the commercial, office, and industrial zoning districts.
2. One (1) projecting sign of a maximum of forty (40) square feet is permitted per ground floor establishment with street frontage. In the case of a multi-tenant building, one (1) additional projecting sign identifying the name of the multi-tenant development is permitted.
3. Projecting signs cannot project more than four (4) feet from the face of the building to which they are attached, including the area between the sign and the face of the building. Projecting signs shall not extend beyond a point two (2) feet from the curb line.
4. Projecting signs must be constructed of wood, metal, durable, weather-resistant material like canvas, canvas-like material, nylon or vinyl-coated fabric, or plastic. Projecting signs constructed of material must be mounted so that they are held taut between support posts.
5. The bottom of any projecting sign shall be at least seven feet and six inches (7'6") above the sidewalk or thoroughfare. No projecting sign affixed to a building may project higher than the building height, including the sign support structure.
6. External illumination, such as goose-neck type lighting, is permitted on projecting signs provided that illumination is concentrated on the area of the sign face only. Projecting signs may be internally illuminated.
7. Projecting signs shall not contain a digital sign component.

**Figure 16.72-9: Projecting Sign**



**D. Wall Sign.**

1. Each business is permitted one (1) wall sign per building wall, with a maximum of two (2) wall signs per business.
2. The maximum size of a wall sign is established at one (1) square foot per linear foot of building facade (calculated for each individual business) where the wall sign will be mounted, or sixty (60) square feet, whichever is greater.
3. Wall signs shall be affixed flat against the building wall and shall not project more than eighteen (18) inches from the building wall. No wall sign affixed to a structure, including sign support structure, may project beyond the ends or top of the wall to which it is attached. However, wall signs may be mounted on a pitched roof, but the sign, including all support structures, may not exceed the peak of the roof.
4. Wall signs must be constructed of wood, metal, plastic, or durable, weather-resistant material like canvas, canvas-like material, nylon, or vinyl-coated fabric. Wall signs constructed of material must be held taut within frames.
5. Wall signs may be internally or externally illuminated.
6. A digital sign component is allowed as part of a permitted wall sign as follows:
  - a. Non-residential uses are permitted an digital sign component.
  - b. The digital sign component is limited to seventy-five (75%) of the total sign area.
7. Wall signs must maintain a minimum vertical clearance of seven feet and six inches (7' 6") above the ground.

Figure 16.72-10: Wall Sign



(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.11; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.72.120 TEMPORARY OFF-PREMISES COMMERCIAL ADVERTISING MESSAGES.

A. One exempted sign or device, as specified in § 16.72.090 (Exempted Signs and Devices), or one allowed temporary structural sign, as regulated in § 16.72.100 (Temporary Structural Signs), or one permanent sign, as regulated in § 16.72.110 (Permanent Signs) may be utilized to display off-premises commercial advertising message(s) for one display period of not more than one hundred twenty (120) days per calendar year per lot or parcel.

B. For the purpose of documenting the display period, property owners shall notify the Zoning Enforcement Officer prior to posting any temporary off-premises commercial advertising message.

C. The display area for temporary off-premises commercial advertising messages located adjacent to roads identified as Regional Transportation Corridors (see Appendix D) are limited to thirty-two (32) square feet in size and must meet all other requirements of this ordinance.

D. The display area for temporary off-premises commercial advertising messages located adjacent to roads not identified as Regional Transportation Corridors (see Appendix D) are limited to sixteen (16) square feet in size and must meet all other requirements of this ordinance.

E. No prohibited sign as identified in § 16.72.070 of this ordinance shall be used to display a temporary off-premises commercial advertising message.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 18.12; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## CHAPTER 16.76: SUBDIVISION STANDARDS

### Section

- 16.76.010 Purpose
- 16.76.020 General requirements
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#### § 16.76.010 PURPOSE.

The purpose of these subdivision standards is:

- A. To establish reasonable design standards for subdivision of land.
- B. To establish guidelines for the dedication, use, and continuing maintenance of common areas.
- C. To establish an adequate street system, a means of water supply, sewage disposal and other utilities, surface drainage and stormwater control, and other services related to the use of subdivided land.
- D. To protect and provide for the public health, safety, and welfare of the citizens of McHenry County.
- E. To provide for the conservation design of subdivisions to promote the following purposes:
  - 1. To preserve the integrity of the land and its natural functions.
  - 2. To enhance community character and access to nature and open space for children and families.
  - 3. To conserve open space and sensitive natural features.
  - 4. To preserve and restore remnant wetlands, woodlands, savannas, and prairies and provide for the long-term ecologic management of these areas.
  - 5. To preserve the hydrologic condition and infiltrative capability of the soil by minimizing mass grading and impervious surfaces.
  - 6. To preserve natural groundwater recharge functions and protect the quality of surface water and groundwater.
  - 7. To minimize stormwater runoff and associated flooding and erosion.

8. To provide diverse lot sizes, building densities, and housing choices.
9. To create neighborhoods with views of open land and with a strong neighborhood identity.
10. To preserve important historic and archeological sites.
11. To conserve scenic views and elements of the County's rural character.
12. To promote interconnected greenways and wildlife corridors throughout the County.
13. To provide convenient walking trails and bike paths within subdivisions and connecting to neighboring communities and businesses.
14. To reduce infrastructure costs and the cost of public services required for new development, improve housing affordability, and enhance property values.
15. To create more livable and sustainable communities.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.76.020 GENERAL REQUIREMENTS.**

A. All federal, state, county, and other official benchmarks, monuments and triangulation stations in or adjacent to a proposed subdivision shall be preserved. When a proposed improvement in a subdivision makes it necessary to move a benchmark, monument, or triangulation station, the authority having jurisdiction shall be notified and given sufficient time to take appropriate action.

B. All dimensions, linear, curvilinear, and angular, necessary to properly re-survey, shall be shown with linear dimensions in feet and decimals of a foot.

C. Monumentation shall be in accordance with the procedures and requirements of the Plat Act (765 ILCS 205/).

D. The design of each subdivision shall take into consideration the capabilities and limitations of topography, drainage, soils, erosion potential, and other features of the site.

E. The subdivision wastewater conveyance and treatment systems shall comply with the McHenry County Public Health Ordinance. Sites utilizing Illinois Environmental Protection Agency (IEPA) permitted technology shall conform to all of the requirements of the IEPA and receive all applicable permits.

F. The subdivision potable water supply systems shall comply with the McHenry County Public Health Ordinance and applicable state laws. Sites utilizing IEPA permitted technology shall conform to all of the requirements of the IEPA and receive all applicable permits.

G. Secure and permanent funding arrangements shall be established for the long-term management and maintenance of common open space, deed-restricted open space, and stormwater facilities once said responsibilities are turned over to a public agency, private land conservation organization, or homeowners/property owners association. Said funding arrangements shall be noted and made part of the covenants and restrictions. A management entity with demonstrated experience and qualifications in natural land management and ecologic stewardship shall be utilized to perform short- and long-term management responsibilities for open space and natural areas. The entity may be a public or private land conservation organization or a professional natural land management specialist or company.

H. A back-up special service area (SSA) is required to provide funds necessary to support the maintenance and upkeep of site elements to be maintained by and the responsibility of a homeowners association, such as sidewalks, open space, and stormwater management areas. The back-up SSA shall be established and detailed in the covenants and restrictions as a condition of the final plat. The back-up SSA shall give the County Board the ability to levy an ad valorem special tax against all taxable property within the proposed SSA in order to fund necessary maintenance, program administration, and other associated costs. The subdivider shall submit to the Staff Plat Review Committee a fully-executed SSA ordinance.

1. Upon receipt, the Department of Planning and Development will submit the ordinance to the County Board for its consideration.

2. In the event the County Board adopts the proposing ordinance, a public hearing, which must be noticed in accordance with §16.16.030 (Notice), shall be held not less than sixty (60) days from the date of adoption, pursuant to the Special Service Area Tax Law (35 ILCS 200/27-30-35).

3. The County Board will consider and vote upon the establishment of the SSA.

I. Certain residential subdivisions are subject to the requirements for conservation design. Section 16.76.030 (Conservation Design Triggers) describes those factors that trigger the required use of conservation design. In addition, when the triggers do not apply, an applicant may choose to subdivide their property in accordance with the conservation design requirements. An applicant shall verify that the subject property is not required to undertake conservation design at the time of application for subdivision. A property owner may object to the designation of land as requiring conservation design by demonstrating, through the submittal of an analysis prepared by competent experts, to the Zoning Enforcement Officer, that the property does not meet the triggers for conservation design. If the Zoning Enforcement Officer concurs with the evaluations submitted by the applicant, the conservation design is not required. The County may seek independent expert opinion regarding the analysis and conclusions.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### **§ 16.76.030 CONSERVATION DESIGN TRIGGERS.**

Subdivision of land resulting in five (5) or fewer residential lots is exempt from required conservation design. In all other residential subdivisions, conservation design is required when the development site meets specified individual or cumulative triggers. For the purpose of determining the presence of cumulative triggers, the area of analysis shall include the property to be subdivided along with a buffer area extending two hundred (200) feet around the property. Conservation design is required when:

A. The site contains or abuts within one hundred (100) feet a designated McHenry County Natural Area Inventory (MCNAI) site.

B. The site contains or abuts within one hundred (100) feet a stream, river, lake, and/or wetland designated as Advanced Identification (ADID) high habitat value or high quality.

C. When the cumulative acreage contained by the following resources equals or exceeds twenty percent (20%) of the total area of the area of analysis (as described above):

1. Wetlands, except farmed wetlands.

2. Floodplains and flood of record areas.

3. Glacial kettle holes.

4. Woodlands and savannas based on on-site determination.

5. Remnant prairies based on on-site determination.

6. Soils characterized as having one (1) or more of the following characteristics:

a. Soils identified as "E" slopes and greater, reflecting highly erodible slopes of twelve percent (12%) and greater as defined in Soil Survey Legend, *Soil Survey of McHenry County, Illinois*, USDA-NRCS, 2002.

b. Soils identified as Depressional hydric soils based on a coverage developed by NRCS using the USDA-NRCS Hydric Soil List, McHenry County: Detailed Soil Map Legend, 12/03/2003.

7. State-designated "Class III Special Resources Groundwater Areas."

8. Aquifer recharge areas as identified in the SARA Map.

9. Publicly owned or private deed-restricted natural open spaces and preserves.

10. Green infrastructure area as identified in the *McHenry County Green Infrastructure Plan*. Green infrastructure area beyond the property but within the two hundred-foot (200') buffer is excluded from the calculation.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## § 16.76.040 LOT CONFIGURATION.

- A. Lot width, lot area, and all setback lines shall conform to all requirements of the zoning district standards of this Ordinance, unless specifically permitted otherwise by conservation design standards.
- B. A minimum lot frontage as required by the zoning district, unless otherwise specified under conservation design standards.
- C. All lots shall front directly upon and take access from a road that is presently, or will be upon completion of the subdivision, publicly dedicated and maintained. The road system of the subdivision shall exit directly upon a dedicated road publicly maintained or a road that, upon completion of the subdivision, will be publicly maintained.
- D. Every lot created by subdivision shall be substantially similar in shape to those lots on the same block, unless the contours of an adjacent street or previously established lot render such shape impractical. Every lot or parcel of land that is subdivided shall contain a relatively straight boundary line between each lot.
- (Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## § 16.76.050 RIGHT-OF-WAY DESIGN.

- A. *General Requirements.*
1. The subdivider shall construct all roads and streets shown on the plat in accordance with the requirements of this Ordinance.
  2. All roads created by a subdivision shall be shown on the plat as dedicated to public use. Private roads are prohibited.
  3. The local township highway commissioner, County Engineer, or representative who will take responsibility for maintaining the facility after final acceptance shall be referred to as the "local jurisdictional agency."
  4. All roadway design requirements shall comply with the applicable sections of the Illinois Department of Transportation (IDOT) Bureau of Local Roads and Streets (BLRS) Manual and the IDOT Bureau of Design and Environment (BDE) Manual.
  5. All road right-of-way construction shall be done in accordance with and the latest edition of the following State of Illinois specifications: "The Standard Specifications for Road and Bridge Construction" (referred to as the "Standard Specifications"), the "Supplemental Specifications and Recurring Special Provisions", the "Manual on Uniform Traffic Control Devices for Streets and Highways", the "Manual of Test Procedures for Materials", the "Highway Standards" and the "Bureau of Design and Environment Special Provisions". Further, the following Region 1 District 1 requirements shall apply: the "District One Special Provisions" and the "District One Details".
- B. *General Roadway Design.*
1. The maximum length for a block between intersecting roads is one thousand two hundred (1,200) feet.
  2. The use of cul-de-sacs and eyebrow streets are prohibited, unless all of the following standards are met:
    - a. It is determined necessary by, and approval is received in writing from, the applicable township highway commissioner.
    - b. It avoids impacts to sensitive environmental resources as identified in the site inventory or it avoids street designs that allow cut through traffic between arterial streets.
  3. Road access to adjacent properties and direct connection with existing abutting public road right-of-way in adjoining subdivisions is required, except in the following situations:
    - a. Written approval is received from the applicable township highway commissioner that such interconnection is not required.
    - b. Written approval is received from the County Engineer that such interconnection is not required, if the subdivision fronts or has access to a County highway.
    - c. It avoids impacts to sensitive environmental resources as identified in the site inventory or it avoids street designs that allow cut through traffic between arterial streets.
  4. Road access (i.e., stub streets) to adjacent vacant properties shall be located in a manner that will allow for the connection to the adjacent vacant parcel without conflicting with resources as identified in the site inventory.
- C. *General Functional Classification Categories.* The following identifies the basic characteristics of the three general categories within the functional classification system as outlined in the IDOT BLRS Manual:
1. *Arterial.* Arterial highways are generally characterized by their ability to quickly move relatively large volumes of traffic, but often with restricted accessibility to abutting properties. The arterial system typically provides for high travel speeds and the longest trip movements. The rural and urban arterial systems are connected to provide continuous through movements at approximately the same level of service.
  2. *Collector.* Collector routes are characterized by a relatively even distribution of access and mobility functions. Traffic volumes and speeds are typically lower than those of arterials.
  3. *Local.* All public roads and streets not classified as arterials or collectors are classified as local roads and streets. The many points of direct access to adjacent properties characterize local roads and streets. Speeds and volumes are usually low and trip distances short.
- D. *Road Design Standards.*
1. *Grade.* The maximum grade for collector streets and streets of higher classifications shall not exceed four percent (4%). The maximum grade for local streets shall not exceed six percent (6%). The maximum grade for all driveways continuing outside of the right-of-way shall not exceed eight percent (8%) unless written approval is obtained from the local jurisdictional agency. The minimum grade of all streets shall be four-tenths percent (0.4%).
  2. *Geometrics.* Street geometrics shall conform to the design standards established in the IDOT BLRS Manual. Streets shall be designed on the basis of the following design speeds:
    - a. Collector street: Fifty (50) miles per hour.
    - b. Local streets: Thirty (30) miles per hour.
  3. *Horizontal Curvature.* Angles on the centerlines of streets shall not be permitted except at intersections. Centerline radii shall be as follows:
    - a. Collector streets: Shall conform to standards set by the IDOT BLRS Manual.
    - b. Local streets: One-hundred-foot (100') minimum.
  4. *Vertical Curvature.* Vertical curves shall be required at all locations where the algebraic difference of grade is one percent (1%) or greater. Vertical curves shall be designed as follows:
    - a. Collector streets: Shall conform to standards set by the BLRS Manual.
    - b. Local streets: Crest vertical curves shall be designed with a minimum K value of thirty (30). Sag vertical curves shall be designed with a minimum K value of fifty (50). In no case shall a vertical curve at a street intersection be less than fifty (50) feet.
  5. *Minimum Radii.* Minimum intersection radii shall be as follows:
    - a. Local and collector street: Right-of-way line of thirty-five (35) feet and pavement of fifty (50) feet.
    - b. Local streets: Right-of-way line of fifteen (15) feet and pavement of thirty (30) feet.
    - c. Local and major arterial street: As determined by IDOT and the local jurisdictional agency.
  6. *Rights-of-Way and Pavement Width Requirements.* The following right-of-way and pavement minimum widths are required. Pavement width is calculated as the total paved area.
    - a. *Collector Street.*



(1) Right-of-way: One hundred (100) to one hundred sixty (160) feet.

(2) Pavement: Thirty-four (34) feet.

b. *Local Street.*

(1) Right-of-way: Sixty-six (66) feet for open drainage and sixty (60) feet for closed drainage.

(2) Pavement: Twenty-two (22) feet.

7. *Pavement.*

a. Pavement materials and construction shall comply with current specifications, as defined in the IDOT Standard Specifications and District 1 Region 1 supplemental specifications for subdivision pavement structure of residential subdivisions.

b. Rigid (e.g., Portland Cement Concrete), Flexible (e.g., Asphalt), or Composite (e.g., HMA surface course overlaying a PCC slab) pavement may be utilized.

c. Asphalt shall comply with the current performance based standards established by IDOT BLRS. This includes but is not limited to current IDOT mix design tables, IDOT District 1 Special Provisions and IDOT BDE Special Provisions.

d. *Pavement Cross Section.*

(1) *Subgrade.* The subgrade is the prepared and compacted soil immediately below the pavement system. This soil shall be prepared to the lines and grades indicated in the plans in accordance with the local jurisdictional agency requirements, then tested utilizing a proof rolling method in compliance with the local jurisdictional agency standards. Areas not in compliance shall be removed and replaced with suitable granular material in compliance with current District 1 Region 1 requirements. The local jurisdictional agency must approve the subgrade prior to installation of the pavement structure.

(2) *Pavement Structure - Sub-Base, Base Course, and Surface Course.* A combination of sub-base, base course, and surface course shall be placed on a subgrade to support the traffic loads and distribute the load to the roadbed. The sub-base, base course, and surface course shall be prepared to the lines and grades indicated in the plans in accordance with the local jurisdictional agency requirements, then tested in compliance with the local jurisdictional agency standards.

e. *Commercial and Industrial Subdivisions.* The pavement structure of all commercial and industrial subdivisions shall be designed on a site-by-site basis, in accordance with the IDOT BLRS Manual for eighty-thousand-pound (80,000 lb.) street weight limits.

f. *Residential Subdivisions.*

(1) *Collector Street.* Pavement structure requirements for a collector street shall be in accordance with the IDOT BLRS Manual for eighty-thousand-pound (80,000 lb.) street weight limits.

(2) *Local Street.*

(a) The minimum aggregate base course thickness shall be twelve (12) inches.

(b) The minimum asphalt binder course thickness shall be two and one-quarter (2 ¼) inches.

(c) The minimum asphalt surface course thickness shall be two (2) inches.

8. *Cul-de-Sacs.* When cul-de-sacs are permitted, they shall comply with the following minimum standards:

a. Right-of-way radius: Sixty-six (66) feet.

b. Pavement radius: Fifty (50) feet.

c. Entrance radius: Twenty (20) feet.

d. Maximum block length: Six hundred (600) feet.

e. Any medians within a cul-de-sac require written approval from the township highway commissioner.

9. *Storm Sewer System.* A storm sewer system in compliance with the McHenry County Stormwater Management Ordinance shall be constructed as necessary to insure satisfactory drainage of surface water throughout the subdivision and adjacent areas.

a. When ditches are installed, ditches shall be constructed along each side of the roadbed and drainage structures installed as necessary to insure satisfactory drainage of surface water throughout the subdivision and adjacent areas. The sizes of all drainage structures are computed by using accepted engineering methodology in compliance with the McHenry County Stormwater Management Ordinance. All drainage structures shall be installed before surfacing material is placed.

(1) Cross-road culverts shall have a minimum diameter of eighteen (18) inches and run from ditch line to ditch line. Driveway culverts shall have a minimum diameter of fifteen (15) inches. All culverts shall be installed with flared end sections unless otherwise permitted by the township highway commissioner.

(2) The length of culvert with end section shall be determined by the transition of grade from roadway to adjacent ditch flowline at a one to four (1:4) (vertical:horizontal) slope. The culvert shall be installed such that the end section shall match this slope.

(3) Pipe culverts shall be reinforced concrete and shall comply with the applicable sections of the IDOT Standard Specifications and Highway Standards. Other culvert pipe materials may be used with approval of the local jurisdictional agency.

b. Curbs and gutters require approval in writing from the applicable township highway commissioner. When curbs and gutters are provided, they may be either of the barrier type (B-6.12) with depressed entrances or the mountable type (M-4.12). They shall conform with the applicable sections of the IDOT Standard Specifications and Highway Standards. When a depressed type of entrance is to be provided, the following shall apply:

(1) The depressed width shall be specified by the local jurisdictional agency.

(2) The depression shall be to a height of one and one-half (1½) inches above the curb flow line.

(3) The transition from full curb height to depressed curb shall be a minimum of three (3) feet unless otherwise specified by the local jurisdictional agency.

c. For conservation design subdivisions, the use of enclosed curb, gutter, and storm sewer systems are strongly discouraged in favor of vegetated swales. In instances where curb and gutter is required, depressions shall be provided to enable stormwater to drain to the vegetated swales.

10. *Shoulders.* Unless otherwise waived, shoulders shall be required along all streets not provided with curbs and gutters. The shoulder shall comply with the following minimum standards:

a. The material shall be crushed virgin aggregate, type B unless otherwise specified by the local jurisdictional agency.

b. The width shall comply with the IDOT BLRS Manual for the type of roadway classification.

c. Shoulders along any county or township road designated as an official bicycle route by a township or County ordinance shall be a minimum of two (2) feet in width and be constructed with a paved surface.

11. *Sidewalks.* Sidewalks require approval in writing from the applicable township highway commissioner. When sidewalks are provided, they shall be located one (1) to four (4) feet inside the right-of-way line, shall be at least four (4) feet in width and four (4) inches in thickness, except where sidewalks cross driveways and intersections where sidewalks must be five (5) inches in thickness. Sidewalks shall be constructed on a four (4) inch Aggregate Base Course, Type B. Sidewalks shall be constructed to meet all applicable American with Disability Act (ADA) standards.

12. *Parkway Restoration.* All ground surfaces within the right-of-way disturbed by the construction operations shall be temporarily and permanently stabilized with topsoil and seed in accordance with the McHenry County Stormwater Management Ordinance.

a. *Topsoil.* The topsoil shall free of contaminants comply with the IDOT Standard Specifications. The thickness shall be a minimum of four (4) inches unless otherwise specified by the local jurisdictional agency.

b. *Seeding.* The seeding mixture shall comply with the McHenry County Stormwater Management Ordinance. The seeding shall be fertilized and mulched for stabilization

and to ensure establishment with materials in accordance with the IDOT Standard Specifications.

13. *Maintenance of Traffic.* Traffic shall be maintained at all times in accordance with the applicable IDOT Highway Standards. Maintenance of traffic plans may be required as determined by the local jurisdictional agency.

14. *Traffic Control and Street Signs.* The subdivider shall furnish and erect all necessary traffic control and street signs, as designated necessary by the local jurisdictional agency. All signs shall be of a type approved by the local jurisdictional agency.

E. *Roads Construction, Maintenance, and Acceptance.*

1. No road construction work may be started until a final plat is approved by the County Board and recorded.
2. An Illinois licensed professional engineer shall oversee the project to assure that construction of the engineering improvements is accomplished in accordance with the approved plans and specifications.
3. During construction of streets with curb and gutter, the subdivider shall not be allowed to partially install pavement below the gutter elevation during construction operations. The subdivider shall be required to maintain positive drainage throughout construction and install pavement up to the finished gutter elevation on a temporary basis. A temporary cross slope of less than two percent (2%) is allowable during construction operations to match the gutter elevation. At the conclusion of construction, the subdivider shall remove the appropriate thickness of the pavement surface in order to establish the final approved cross-section of the roadway.
4. The subdivider is responsible for maintaining and repairing all roads in the subdivision until the roads are accepted by the appropriate authority. Maintenance includes snow plowing, which shall ensure ingress and egress to all lots that have been sold. Failure to ensure adequate ingress and egress is cause for withholding of building permits and the approval of additional units of the development.
5. Subdivision roads will not be accepted by the local jurisdictional agency until all construction detailed in the plans is completed. It is the responsibility of the subdivider to consult with the local jurisdictional agency before the work has begun to afford the local jurisdictional agency an opportunity to inspect the work as construction progresses.
6. When roadside drainage facilities include Class V injection wells, adequate precaution shall be taken to insure against siltation of the Class V injection wells until protective vegetation has become established in the ditches, and overflow provisions provided to prevent roadway flooding.
7. The asphalt surface course shall only be applied after the subdivider has received written approval from the local jurisdictional agency.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.76.060 EASEMENTS.

The following easements are required by this Ordinance and provisions shall be made through a homeowners association, deed restriction, covenant, or other acceptable means to maintain all easements.

A. *Utility Easements.* Easements shall be provided for utility services including, but not limited to, sanitary sewer, storm sewer, water, gas, telecommunication, cable television, and electric. The location of a utility easement is determined by the appropriate utility company, with the exception of utility easements for properties that front on a county highway. In such case, a utility easement running the full length of the County highway frontage is required outside of, but immediately adjacent to, the County highway right-of-way. Such easements shall be a minimum of twenty (20) feet in width and the plat shall include notes to indicate that such easements are provided for utility services. The developer shall provide underground utilities unless specific site conditions make the installation of underground utilities impractical.

B. *Stormwater Management Easements.* When a subdivision is traversed by a waterway, intermittent stream or drainage way, a stormwater easement shall be provided conforming substantially with the lines of same. Such easement shall be of sufficient size to protect said waterway, intermittent stream or drainage way, and to permit ingress and egress for maintenance. Such easement shall meet the requirements of the Stormwater Management Ordinance and shall be shown on the recorded final plat.

1. An on-site wastewater treatment system restriction line shall be shown in conjunction with each stormwater management easement demarcation line, in accordance with the Public Health Ordinance.

2. Drainage and stormwater retention and detention easements shall be adequately maintained to provide for removal of accumulation of vegetation, silt, debris, or other material which may interfere with the flow characteristics of drainage ways or the essential features of retention or detention facilities. In subdivisions of five (5) lots or more, all stormwater detention/retention areas shall be platted as a separate outlot that is not part of an individual building lot, and owned and maintained by a homeowners association, property owners association, approved open space management entity, or government agency.

3. No construction of structures, dams, embankments, or channels, except as indicated on the engineering drawings, and no planting of trees, shrubbery or other flow-impeding vegetation, or solid fences that hinders the flow of water or otherwise inhibits the intended purpose, are permitted within any drainage or stormwater retention or detention easements.

C. *Buffer Area Easement.* When a subdivision contains a linear or non-linear water body including channels, lakes, ponds, and wetland, as defined by the Stormwater Management Ordinance, or when a subdivision is located in proximity to such a linear or non-linear water body located on an adjacent property, a buffer area easement shall be provided as required by the Stormwater Management Ordinance

D. *Pedestrian Way Easements.* Pedestrian way easements shall be provided where appropriate. Pedestrian ways shall be maintained to permit their continued use. A pedestrian way maintenance plan shall be provided with the final plat.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.76.070 STREET NAMING AND ADDRESSING.

Street names and numbers shall be established at the time of subdivision in accordance with §16.60.050 (Street Names and Address Numbers). Street names and address numbers shall be included on the recorded final plat.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.7; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.76.080 STORMWATER MANAGEMENT.

Stormwater management within subdivisions shall comply with the McHenry County Stormwater Management Ordinance.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.8; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.76.090 CONSERVATION DESIGN REQUIREMENTS.

In addition to the other requirements of this chapter, subdivisions that trigger and subdivisions that voluntarily choose conservation design shall comply with the following standards.

A. *General Requirements.*

1. The proposed development shall be designed to fit the topography, physical features, and soil conditions of the subject site. More specifically, conservation design shall preserve natural drainage patterns, stabilize soils during construction, preserve native vegetation, and protect, enhance, and maintain natural resources.
2. It is recommended that the applicant undertake the optional pre-application conference and present a concept plan that identifies all natural resources, conservation areas, open space areas, and physical features, as referenced in § 16.76.030 (Conservation Design Triggers). To the maximum extent practical, these features shall be preserved as open space and protected from negative impacts generated as a result of the development or other land disturbing activities.
3. Building sites shall be located to take advantage of open space and scenic views. Lots shall be designed to facilitate the access within neighborhoods and to open space and conservation areas.
4. The street network shall be designed to minimize encroachment into natural resources, conservation areas, open space areas, and physical features, as identified in § 16.76.030 (Conservation Design Triggers), and to take advantage of open space vistas.



5. Earth grading shall be minimized. The subdivider is required to submit a site plan that delineates where soils will not be disturbed as the result of earthwork, grading, or other construction activities.

B. *Open Space Requirement.*

1. *Qualifying Open Space.* The minimum requirement for open space, as required by conservation design standards, shall be maintained in common open space. Qualifying open space shall be generally maintained in an undeveloped state. Qualifying open space includes, but is not limited to, the following:

- a. Woods and savannas.
- b. Wetlands and wetland buffers.
- c. Streams, waterways, lakes, and ponds.
- d. Prairies and grasslands.
- e. Floodplains and flood prone areas, provided that they are maintained as other qualifying open space types on this list.
- f. Naturally landscaped areas.
- g. Walking, bicycle, or equestrian trails.
- h. Naturally landscaped stormwater detention and drainage facilities.
- i. Areas utilized for installation of water wells, spray irrigation of treated wastewater, excluding treatment and associated wastewater storage facilities, and on-site wastewater treatment systems, excluding septic tanks or other pre-treatment devices and lift stations, provided that they are maintained as other qualifying open space types on this list.
- j. Areas of greater than twelve percent (12%) slope.
- k. Pasture and agricultural cropland areas, orchards, community gardens, apiaries, and hen houses.
- l. Manicured turf grass areas such as those on golf courses, playgrounds, and recreational fields, which are limited to ten percent (10%) of the total area of required open space.

Qualifying areas do not include parkways, landscape islands, sign easements, berms, or similar installed landscape features. In addition, roads, driveways, parking lots, and rights-of-way do not count towards fulfilling open space requirements. The required perimeter buffer yard may be counted if it is comprised of the resources to be protected as identified in § 16.76.030 (Conservation Design Triggers).

2. *Open Space Standards.*

- a. Where feasible, degraded remnant natural areas shall be restored to a natural state that will require only routine ecologic management.
  - b. The layout of the development shall be designed to minimize any negative impacts to abutting land with significant natural areas and resources. Buffers shall be provided against natural areas on adjacent properties, and existing wildlife corridors and sensitive ecosystems preserved.
  - c. Open space shall be preserved in large contiguous areas.
  - d. The open space shall be designed to facilitate easy access from all streets and neighborhoods within the development. Open space shall be interconnected with greenways and, if applicable, trail systems both within the development site and connecting to adjacent subdivisions and to local and regional trails.
  - e. Open space shall be dedicated as common open space to be jointly owned by a qualified governmental body, conservation agency, homeowners association, or property owners association.
  - f. Required open space areas cannot be enclosed with man-made fencing, with the exception of areas containing natural or cultural features that require special protection and agricultural and equestrian pastures and trails.
  - g. Required open space areas shall be maintained in perpetuity.
  - h. Required open space areas cannot be improved with any structures or other development. However, the County may approve certain structures that will not negatively impact the natural and open space areas. These exceptions include, but are not limited to, picnic shelters, viewing stands, interpretive signs, and benches. These structures shall be compatible with open space uses. A sign easement may be located in an open space area, however areas dedicated for sign easements are not included in the calculation of required open space. Agricultural exempt structures are allowed in open space areas that are utilized for agricultural purposes; however, areas used by agricultural exempt structures as well as substantially disturbed areas located adjacent or between agricultural exempt structures are not included in the calculation of required open space.
  - i. Permanent boundary signs shall be installed to delineate open space from private property. Placement of signs shall be determined at preliminary plat stage.
3. *Perimeter Buffer Yard.* A minimum fifty-foot (50') width perimeter buffer yard, designated as an outlot(s), shall be maintained around the exterior of the development on all sides. The buffer is measured from the road right-of-way or adjacent exterior property line of the development, as appropriate. This buffer shall be designed to screen new housing or incompatible development, preserve scenic views, or otherwise enhance the landscape as seen from existing perimeter roads. A trail or sidewalk may be constructed within the perimeter buffer. Landscaped berms and entrance signs are allowed in buffers, and roads may cross the buffer.

4. *Open Space Prohibitions.* Use of open space that conflicts with conservation purposes are prohibited. Prohibitions shall be identified in and enforced through the subdivision covenants. The following activities are prohibited, unless allowed by the approved stewardship plan:

- a. Dumping of grass clippings, yard waste, debris or other objectionable material.
- b. Storage of material, vehicles, etc.
- c. Removal of native vegetation or trees.
- d. Introduction of exotic plant species.
- e. Manipulation or alteration of natural watercourses or wetlands.
- f. Filling, grading, drilling, removal of soil or other natural materials, or dredging.
- g. Water wells and on-site wastewater treatment systems.

5. *Open Space Ownership and Funding Requirements.*

a. Dedicated open space shall be protected in perpetuity by a binding conservation easement or similar binding legal instrument recorded with the McHenry County Recorder and granted to one (1) or more of the following entities, which will be responsible for all maintenance, control, and insurance of common areas, including dedicated open space areas. The ultimate owner of open space, as well as the entity responsible for maintaining it, shall be identified and made part of the conservation design covenants and restrictions.

(1) A public agency whose primary purpose is open space management is the preferred option.

(2) A private land conservation organization whose primary purpose is the preservation and maintenance of conservation areas, natural resources, or agricultural resources is the second preferred option.

(3) A homeowners or property owners association, if it is not practical or appropriate for a public agency or private land conservation organization to accept responsibility. If ownership resides with the homeowners/property owners association, membership in the HOA/POA shall be mandatory and automatic for all lot and parcel owners and their successors. The association will have lien authority to ensure the collection of dues from all members.

b. The responsibility for maintaining open space and any facilities located thereon is borne by the subdivider until eighty percent (80%) of the lots are sold and the initial letter of credit or bond for establishment of the natural landscape is released. Ownership is then passed to a public agency, a not-for-profit entity whose primary purpose is the preservation and maintenance of open space, or to the homeowners/property owners association.

c. In the event the not-for-profit entity or the homeowners/property owners association ceases to exist, the responsibility for maintaining the open space and any facilities

is borne by all lot and parcel owners and their successors.

d. A cost estimate for natural landscape and ecological restoration activities shall be submitted with the cost estimates for infrastructure and stormwater improvements. The amount of the bond or letter(s) of credit furnished by the subdivider shall be in the amount of one hundred twenty-five percent (125%) of the estimated cost of the work and materials required for these activities. This is a separate bond or letter of credit from that furnished for roads but may be combined with the bond or letter of credit for stormwater work.

e. Prior to release of the bond or letter of credit, the developer or homeowners/property owners association shall submit a maintenance bond or letter of credit for ten percent (10%) of the project cost to be valid for two (2) years.

**C. Clustering of Lots, Structures, and Building Sites.**

1. Clustering of lots, structures and building sites is required when possible and shall be determined by designing lots, structures, and sites around open space areas, where preference is given to land, not necessarily undisturbed, which either retains or has been substantially restored to its original native character. The following describes the different levels of open space quality, from highest to lowest, and siting approval is based upon the proposed development's ability to preserve significant portions of open space at the highest quality levels possible.

a. Priority 1: Intact natural communities, known habitats of rare and endangered species, natural and restored wetlands, prairies, savannas and woodlands, environmental corridors, significant historic and archaeological properties, and areas with steep slopes.

b. Priority 2: Natural landscaped areas created to provide plant and wildlife habitat and open space amenities.

c. Priority 3: Areas providing little habitat but providing a viewshed, recreation or a sense of open space.

2. Lot and building site size may be reduced below that required by the underlying zoning classification in order to achieve greater preservation and protection of natural resources. The bulk regulations of Table 16.76-2: Conservation Design Residential Yard and Bulk Requirements apply to conservation design. However, the maximum permitted density in any conservation design shall be limited to ninety percent (90%) of the density permitted by the underlying zoning district after subtracting one-half (1/2) of the site acreage located in wetlands, if any.

**TABLE 16.76-2: CONSERVATION DESIGN RESIDENTIAL YARD AND BULK REQUIREMENTS**

Zoning District	Minimum Lot Area (In acres) per Dwelling Unit	Minimum Lot Frontage <sup>1</sup>	Minimum Street Setback	Minimum Rear Setback	Minimum Side Setback	Required Minimum Open Space (% of Entire Site Area)
E-5	1ac	150'	30'	20'	20'	70%
E-3	.75 ac	130'	30'	20'	20'	60%
E-2	.6 ac	120'	30'	10'	10'	50%
E-1	0.33 ac	100'	30'	10'	10'	50%
R-1	0.25 ac	70'	20'	10'	10' or 10% of lot width, whichever is greater	50%
R-2	0.5 ac	140'	20'	10'	10'	50%
R-3	0.75 ac	175'	20'	10'	10'	50%

<sup>1</sup> Lots located on cul-de-sac shall have a lot frontage of not less than 50% of the district standard or fifty (50) feet, whichever is greater.

3. Lots shall be located as to minimize negative impacts on the natural, visual, and cultural resources of the site and between incompatible uses and activities.

4. Lots shall be designed and sited to:

a. Avoid disturbance of ADID high quality habitat wetlands and remnant prairies unless there are no practicable alternatives.

b. Avoid disturbance of steep slopes (slopes of twelve percent (12%) or more) unless there are no practicable alternatives.

c. Avoid disturbance of woodlands and savannas unless there are no practicable alternatives. In all cases, the subdivider shall preserve at least seventy percent (70%) of the area of woodland and savanna of one (1) acre or larger.

d. Avoid disturbance of wetlands and wetland buffers unless there are no practicable alternatives. In all cases, the subdivider shall preserve at least eighty percent (80%) of wetlands and wetland buffers.

e. Avoid disturbance of floodplains unless there are no practicable alternatives. In all cases, the subdivider shall preserve at least ninety percent (90%) of floodplains by area.

f. Minimize fragmentation of natural areas and open space while also providing for access and views from clusters.

g. Minimize disturbance of natural depressions, drainage ways, and sensitive recharge areas to facilitate their use for runoff infiltration and filtering.

h. Maintain scenic views of open space from adjacent and proposed roads. Minimize visual impact through the use of landscape.

i. Protect high priority aquifer recharge areas as identified in the SARA Map.

j. Preserve buildings and sites of historic significance or incorporate them through adaptive reuse.

D. **Trail Network.** Installation of a multi-purpose trail system is encouraged to provide access to open space areas within the subdivision, as well as access to adjacent subdivisions and regional trails. The trail system shall be owned and maintained by the same entity as the open space. A trail ownership and maintenance plan shall be approved by the County prior to the approval of the final plat. The County may require trails to be designed and constructed to meet applicable American with Disability Act (ADA) requirements, if any.

E. **Landscape Standards.** The use of native plant species is required within the perimeter buffer, bio-swales, detention basins, common open space, buffers of streams, lakes, wetlands, and other water bodies, areas. Native plant species consists of grasses, wildflowers, shrubs, and trees that are native to the greater Chicago region as identified in "Plants of the Chicago Region" (Swink and Wilhelm, 1994). The installation of landscape and long-term management shall conform to the approved stewardship plan's maintenance, monitoring, and performance criteria.

F. **Parking Standards.** In addition to the other parking standards of this Ordinance, parking lots in conservation design subdivision shall comply with the following:

1. Parking lots shall be designed to maximize the opportunity to infiltrate and filter runoff from the lot. The use of pervious surface is encouraged in lieu of conventional asphalt or concrete paving. However, consideration and mitigation of potential groundwater contamination resulting from the infiltration of stormwater runoff into the subsurface shall be included in the design.

2. Parking lot runoff shall be routed to swales and bio-swales. Where curbing is determined to be necessary, frequent curb cuts are required to allow runoff to enter swale and bio-swale structures.

**G. Stewardship Plan.**

1. Overview.

a. A stewardship plan shall be prepared by a specialist in the area of ecological restoration or natural landscape. The plan shall be comprised of two parts: 1) a short-term plan for the establishment, enhancement, and restoration of natural areas; and 2) a long-term plan for the maintenance and monitoring of natural areas in perpetuity.

b. The plan shall be approved as part of the subdivision review process and recorded in the covenants for the subdivision. The plan shall be in text form with appropriate maps and/or graphic renderings that identify the various management units on the site. The plan shall provide specific details and methods regarding the preservation, re-establishment, maintenance, and management of open areas and natural resources in perpetuity on the subject site. It shall be in a format that is easily understood and identify all specific tasks that shall be completed in order to ensure the viability of current and future resources on the site.

c. The plan shall address and/or allocate:

- (1) The short-term enhancement and restoration of remnant natural areas and the establishment of new landscapes.
- (2) The long-term maintenance and monitoring of such areas.
- (3) The responsibility and guidelines for performing said tasks and any necessary provisions for replacement costs and long-term capital improvements.

d. In addition, the plan shall:

- (1) Serve as an educational resource for future residents and property owners.
- (2) Designate and map the ownership of natural features and dedicated open space.
- (3) Allocate responsibility and guidelines for the maintenance and operation of the dedicated open space and any facilities located thereon, including provisions for ongoing maintenance and long-term capital improvements.
- (4) Estimate the cost for maintenance, inspection and operation of the dedicated open space areas for said work. The plan shall describe the means by which such funding will be obtained.
- (5) Provide that the plan cannot be changed without the approval of the County and describe how the plan will be enforced.

e. The stewardship plan shall include performance standards for all natural open space areas and naturalized stormwater management facilities and buffers. The performance standards shall identify proposed methods for establishing the areas and require monitoring and maintenance for at least three (3) full growing seasons following initial enhancement, restoration, and planting, or until initial performance standards have been met. The design intent for such areas is to provide an aesthetic, healthy, and diverse community of native vegetation to meet the objectives of soil stabilization, water quality improvement, and wildlife habitat. Minimum performance standards for restoration, planting, maintenance, and monitoring of natural open space and naturalized stormwater facilities are detailed below. Under circumstances where the minimum performance standards are not met, alternative performance standards shall be presented to and approved through the development review process.

f. Beyond the initial establishment and restoration period, regular maintenance and management shall be performed in perpetuity to continue to meet the performance criteria and to enhance natural ecologic conditions over time.

2. *Short-Term Landscape Restoration and Planting Schedule of Stewardship Plan.* A site specific restoration and planting schedule shall be submitted to the County with required final engineering plans. The plan shall be prepared by a qualified professional in the field of ecological restoration and/or natural landscape. A cost estimate to be used to calculate the amount of the required bond and/or letter of credit shall also be prepared. At a minimum the plan shall include:

a. A map drawn to scale depicting all proposed restoration and planting areas. Identification of proposed management units based on remnant natural areas, soil types, topography, hydrology, and pre-settlement vegetation. Management unit mapping shall also show the overall layout of the development to demonstrate that naturalized areas are adequately set back from structures and other infrastructure so that the potential for fire hazards during controlled or accidental burns is reduced. Where applicable, fire breaks, including those in the form of mowed paths, should also be identified. Aggressive native tree species to be removed shall be noted.

b. A list of all plants, seeds, and/or plugs to be used within each management unit. All plantings shall consist of species native to the greater Chicago region, as identified in "Plants of the Chicago Region" (Swink and Wilhelm, 1994), of a local genotype and appropriate for the proposed habitat. The number of plants and plugs to be used and the amount/weight of seed per species shall also be included, along with seeding rates per acre for each species.

c. For existing wetland, prairie, savanna, and woodland communities, a schedule of management and enhancement activities for areas proposed for restoration. This schedule shall address methods of weed and brush removal, including herbicide, cutting and hand pulling, replanting necessary to restore native plant diversity, and, where appropriate, sediment removal, re-grading, stabilization, and related measures necessary to restore degraded wetlands and aquatic systems.

d. A three-year (3-year) management schedule that includes proposed timing and description of the following: site preparation, application of herbicides, seeding activity, mowing, controlled burns, and similar activities. Areas being restored to native communities should be protected by silt fencing or construction fencing to prevent unnecessary disruption or destruction due to nearby construction activity.

3. *Short-Term Landscape Restoration and Planting Schedule Preferred Criteria.* The success of natural landscape can be affected by the appropriateness of the plant species selected, the effectiveness of the grading and seedbed preparation, the quality of the seed and plant material used, the timing of the planting, and attention to early maintenance. Whenever possible, land shall remain undisturbed until seeding can be accomplished. The success of the project will be formally evaluated by the following vegetation performance standards monitored over time.

a. In order to ensure adequate diversity of plants, respond to varying environmental and hydrologic conditions, ensure the establishment of native landscapes that are functional, aesthetic, and cost-effective, and provide reasonable variety to meet aesthetic expectations, the following is required:

- (1) A minimum of ten (10) species of native plants shall be established within any naturalized stormwater facility, such as naturalized detention basins or swales.
- (2) A minimum of forty (40) species of native plants shall be established in any upland landscapes.

b. By the end of the first full growing season, planted areas shall have ninety percent (90%) vegetation cover and no area larger than one (1) square meter may be devoid of vegetation. A cover crop of annual rye or oats may be used to help achieve this goal. At least seventy-five percent (75%) of the plugs, root stock, and tubers, and fifty percent (50%) of the seeded species should be present and alive. If an area is designed as an aquatic or emergent system, it is anticipated that portions of the submerged area will be periodically exposed and without vegetation cover due to fluctuating water levels. If, by the end of the first full growing season, the basin emergent zones and/or side slopes fail to support the establishment of sufficient vegetation, then corrective measures regarding the fundamental design of the area and/or planting plan are required.

c. During the second growing season at least sixty percent (60%) of the permanent species planted in seed form should be evident. Ninety percent (90%) or more of species planted as plugs, root stock and tubers shall also have persisted into the second season. If this fails to occur, a determination shall be made as to why and remedial action is necessary. Remediation may include over-seeding and/or plugging of appropriate species. Finally, undesirable, invasive plant species shall not be prevalent in any of the management units. No invasive, weedy species shall be among the five (5) most dominant plant species in the overall vegetative cover, including any of the following: Reed canary grass (*Phalaris arundinacea*), Common reed (*Phragmites australis*), Purple loosestrife (*Lythrum salicaria*), Non-native thistle (*Cirsium* spp., *Carduus* spp.), Sweet clover (*Melilotus* spp.), Crown vetch (*Coronilla varia*), Wild parsnip (*Pastinaca sativa*), Burdock (*Arctium* spp.), Garlic shallard (*Alliaria petiolata*), Teasel (*Dipsacus* spp.), Ragweed (*Ambrosia* spp.), Kentucky bluegrass (*Poa pratensis*), Buckthorn (*Rhamnus* spp.), Sandbar willow (*Salix interior*), Honeysuckle (*Lonicera* spp.), Multiflora rose (*Rosa multiflora*), Box elder (*Acer negundo*), Canadian Goldenrod (*Solidago canadensis*), Queen Anne's Lace (*Daucus carota*).

A more complete listing of common invasive species is found in the "Illinois Nature Preserve Management Guidelines."

d. At the end of the third full growing season, at least seventy-five percent (75%) of the seeded permanent species and ninety percent (90%) or more of species planted as plugs, root stock, and tubers are expected to be established. Alternatively, native perennial species that volunteer on the site, excluding undesirable invasive species, may be counted in determining the preceding criteria. Qualitative vegetative sampling within each management area shall achieve the following in order to be determined a success: a mean "coefficient of conservatism" shall meet or exceed three (3) and the "floristic quality index" shall meet or exceed twenty (20), except in designated stormwater management facilities as per "Plants of the Chicago Region" (F. Swink and G. Wilhelm).

e. The five (5) most dominant species of the overall vegetative cover within each management unit shall not include any of the undesirable species referenced above under the second season performance standards. If the identified level of species development fails to occur, a determination shall be made as to why, and a remedial action plan shall be prepared and submitted to the County for approval. The approved remedial plan shall be implemented and continued monitoring is required beyond the third growing season until these performance criteria are met. Where the minimum performance standards cannot be achieved, a written explanation and alternative performance standards shall be submitted for consideration by the County.

f. The landscape installation bond or letter of credit will not be reduced or released until these conditions have been achieved and a maintenance letter of credit has been provided.

4. *Short-Term Plant Monitoring Requirements.* The following tasks shall be performed within each management unit identified in the landscape/planting plan during the first three (3) years. Monitoring and reporting is required annually for a minimum of three (3) full growing seasons during and following restoration and planting. Under circumstances where the minimum performance standards cannot be achieved, alternative performance standards shall be presented to the County for review and approval.

a. *Plant inventory of all naturally landscaped areas.* This inventory shall determine overall vegetative cover, the total number of species, and the prevalence of undesirable/invasive species, consistent with specified performance criteria. This inventory is used to determine where follow-up seeding or planting is needed, and to identify, locate, and remove undesirable weedy species on a timely basis. Permanent transect vegetation sampling techniques should be used within each management unit to adequately document and monitor plant community establishment over the initial three-year (3-year) period. The presence of any plant species observed outside of a transect and not documented by sampling along such transect shall also be noted. Sampling techniques and summaries shall be compiled consistent with methods described in "Plants of the Chicago Region" (F. Swink and G. Wilhelm).

b. *Establishment of permanent photographic monitoring locations.* Photographs shall be taken to document the establishment of vegetative cover, erosion problems, and other relevant maintenance concerns within each management unit identified in the landscape/planting plan. Photographs shall be of satisfactory quality and resolution to accomplish the intent of the performance standards and shall be taken from the same locations during each monitoring event. A detailed description of the camera/photo location based on distance from a permanent structure, the orientation of the photo, and the vegetation zone being photographed shall be provided. Additional photos should be taken of problem areas and remedial activities.

5. *Long-Term Landscape Monitoring and Management.*

a. Long-term monitoring shall be performed on an annual basis until the maintenance bond is released. Monitoring reports shall be submitted to the County for review and approval.

b. Continued ecological management shall be provided to maintain a diverse native plant community, consistent with performance criteria, to minimize the proliferation of weeds and undesired woody vegetation, and to prevent erosion. At a minimum, the site shall continue to meet the vegetation performance standards of the third growing season, as specified above, with regard to erosion control, vegetation coverage, species diversity, and control of invasive species. Long-term maintenance consists of controlled burning, generally every one (1) to three (3) years or as dictated by site conditions. To maintain the established native plant communities, spot control and application of herbicides shall be performed, as necessary.

c. Long-term maintenance includes the removal of trash or debris and the removal of obstructions from detention basin outlet structures. Periodic removal of accumulated sediment from swales, forebays, and settling basins shall be done to maintain the function and aesthetics of stormwater facilities. At a minimum, sediment shall be removed from forebays and sediment basins when one (1) foot or more of sediment has accumulated.

d. The landscape maintenance letter of credit will only be released after these standards have been achieved for two (2) years.

6. *Reporting Requirements.* Monitoring reports are due on February 1 for each required reporting year and shall be submitted in a digital format to the County and include the following:

- a. A summary of vegetation data collected within each management unit, including an assessment of compliance with performance criteria.
- b. A description of vegetation maintenance activities, including over-seeding, replanting, control of undesirable weedy species, and an assessment of their effectiveness in meeting performance criteria.
- c. Photographs and accompanying descriptions taken at permanent monitoring stations.
- d. A summary of maintenance activities, including the landscape maintenance budgets, for both the current year and the coming year.

H. *Tree Protection.* To the greatest extent possible, significant trees and tree stands that meet the tree inventory and protection standards should be incorporated into protected open space. They should be identified and protected within the stewardship plan.

1. *Submittals and Standards for Tree Protection.*

a. As part of the preliminary plat submittal, the subdivider shall submit a tree survey, as defined below, and a tree preservation proposal prepared by a qualified arborist, forester, or similarly qualified professional.

(1) The survey shall consist of a scaled drawing that shows the location of all desirable native tree species listed in this section having a diameter at breast height (DBH) of four (4) or more inches. The inventory shall also include all other existing trees with a DBH of eight (8) or more inches, excluding prohibited tree species listed in this section. In the case of a multi-stemmed tree, the diameter of the clump is taken as a whole. The survey shall include, at a minimum, an inventory listing individual trees by tag number, the tree species by common name and scientific name, size (DBH), condition, and any observed problems.

(2) The survey shall also include a tree count of desirable native tree species listed in this section having a diameter at breast height (DBH) of between two (2) and four (4) inches. The relative locations of groupings of these trees shall be identified on a site map.

(3) Where trees are located in a permanently protected open space area and will be free from any grading activity, identification of individual trees is not required.

b. Where mass removal or clear cutting of desirable native trees has occurred, the Staff Plat Review Committee will not accept nor review a proposed subdivision for a period of one (1) year.

c. Where individual trees or stands of trees are removed by any cause or for any reason other than those listed on the tree replacement exception, the County may require that the area containing the removed trees or stands of trees be replanted and that the area be dedicated as and made subject to a tree preservation easement, maintained in perpetuity as open space.

d. During development and construction activity, all reasonable steps shall be taken to prevent damage to or destruction of protected trees, woodlands, and savannas within protected open space areas. These steps include:

(1) Soils shall not be removed, compacted, or otherwise disturbed within the critical root zone.

(2) A protective fence approved by the County shall be erected around the critical root zone of any protected tree or woodland area. Signs shall be affixed to said fence indicating the presence of the critical root zone and a protected area.

(3) All desirable trees on property adjacent to the subject site and within ten (10) feet of the site's property line or have a critical root zone extending into the subject site, shall be protected from unreasonable damage by the use of acceptable tree protection measures.

(4) Mass cuts and mass grading are prohibited in woodland areas.

(5) Boring shall be used to install any underground utilities in tree areas, where feasible.

(6) The subdivider shall ensure that all applicable subcontractors are trained in proper tree protection.

(7) No excess soil, additional fill, equipment, trailers, liquids, or construction debris is allowed to be placed within the identified critical root zone of any tree.

(8) Only protective non-damaging devices or attachments may be attached to any tree during construction.

2. *Tree Replacement.*

a. Any protected tree removed pursuant to County approval shall be replaced on an inch-diameter basis as provided for below:

<b>TABLE 16.76-3: TREE REPLACEMENT SCHEDULE</b>					
<b>Diameter at Breast Height of Removed Tree</b>	<b>Number of replacement trees required as measured in diameter at breast height</b>				
	<b>1.5" trees</b>	<b>-or-</b>	<b>2" Trees</b>	<b>-or-</b>	<b>2.5" trees</b>
<b>TABLE 16.76-3: TREE REPLACEMENT SCHEDULE</b>					

Diameter at Breast Height of Removed Tree	Number of replacement trees required as measured in diameter at breast height				
	1.5" trees	-or-	2" Trees	-or-	2.5" trees
6 inches	4		3		3
7 - 8 inches	6		4		3
9 - 10 inches	7		5		4
11 - 12 inches	8		6		5
13 - 25 inches	n/a		12		10
26 or more inches	n/a		15		12

b. Tree replacement shall be exercised to the greatest extent possible. When a high density of trees is not appropriate or the full replacement of trees on site would result in the unreasonable crowding of trees, appropriate reductions in the tree replacement amount are allowed. If available, a fee in lieu of payment for tree replacement and ecological restoration may be approved by the County.

c. A tree replacement plan shall be prepared by a qualified arborist, forester, or similarly qualified professional in the field of natural resources, and familiar with the native ecosystems of the Chicago region. The tree replacement plan shall depict the location and corresponding elevation of each replacement tree and each preserved tree. Corresponding text shall state the species and diameter of each tree with a description of the proposed management strategy to ensure its health and survival on the property.

d. Replacement trees with local genotypes from a two-hundred-fifty mile (250-mile) radius shall be used. All trees shall be high quality, installed free of disease, and in a manner that ensures the availability of sufficient soil and water to sustain healthy growth. Unless otherwise approved by the County, replacement trees shall be selected from the following native species. No species of evergreens are permitted as suitable options to meet tree replacement requirements.

TABLE 16.76-4: DESIRABLE TREE AND SHRUB SPECIES	
DESIRABLE NATIVE TREE SPECIES	
TABLE 16.76-4: DESIRABLE TREE AND SHRUB SPECIES	
DESIRABLE NATIVE TREE SPECIES	
<i>Acer nigrum</i>	Black maple
<i>Acer saccharum</i>	Sugar maple
<i>Carpinus caroliniana</i>	American hornbeam
<i>Carya cordiformis</i>	Bitternut hickory
<i>Carya glabra</i>	Pignut hickory
<i>Carya ovata</i>	Shagbark hickory
<i>Celtis occidentalis</i>	Hackberry
<i>Ostrya virginiana</i>	Ironwood
<i>Quercus alba</i>	White oak
<i>Quercus bicolor</i>	Swamp white oak
<i>Quercus coccinea</i>	Scarlet oak
<i>Quercus ellipsoidalis</i>	Hill's oak
<i>Quercus macrocarpa</i>	Bur oak
<i>Quercus rubra</i>	Red oak
<i>Quercus velutina</i>	Black oak
<i>Tilia americana</i>	American linden
DESIRABLE NATIVE SHRUB SPECIES	
<i>Prunus Americana</i>	Wild plum
<i>Corylus americana</i>	Hazelnut
<i>Malus ioensis</i>	Prairie crab
<i>Viburnum dentatum</i>	Downy arrowwood
<i>Amelanchier arborea</i>	Serviceberry
<i>Amorpha canescens</i>	Lead plant
<i>Ceanothus americanus</i>	New Jersey tea
<i>Corylus Americana</i>	Hazelnut
<i>Crataegus mollis</i>	Downy hawthorn
<i>Lonicera prolifera</i>	Iowa crab
<i>Physocarpus opulifolius</i>	Ninebark
<i>Prunus virginiana</i>	Choke cherry
<i>Ribes americanum</i>	Wild black currant
<i>Ribes missouriense</i>	Wild gooseberry
<i>Salix humilis</i>	Prairie willow
<i>Viburnum acerifolium</i>	Maple leaved viburnum
<i>Viburnum prunifolium</i>	Black haw viburnum
<i>Viburnum rafinesquianum</i>	Downy arrowwood viburnum
<i>Xanthoxylum americanum</i>	Prickly ash viburnum

e. Consistent with good forestry and ecological practices, replacement trees shall be of either equivalent or a superior quality of species. For example, a softwood tree may be replaced with a hardwood tree, but a hardwood tree cannot be replaced by a softwood tree. In order to preserve and enhance the oak-hickory savannas and woods native to McHenry County, oak and hickory trees shall be replaced in kind with native oak and hickory species.

f. Invasive trees and shrubs shall be removed as part of the forestry practices and ecological restoration activities, and are not treated or acknowledged as protected tree species. Aggressive native trees shall be removed as necessary and appropriate for the ecologic restoration of oak-hickory savannas and woods. Proposals to remove such trees shall be identified in the stewardship plan. The following trees do not require replacement nor shall they be planted as replacements for desirable trees:

**TABLE 16.76-5: PROHIBITED TREE SPECIES**

<b>TABLE 16.76-5: PROHIBITED TREE SPECIES</b>	
<i>Acer negundo</i>	Box elder
<i>Acer plantanoides</i>	Norway maple
<i>Acer saccharinum</i>	Silver maple
<i>Ailanthus altissima</i>	Tree of heaven
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Elaeagnus umbellata</i>	Autumn olive
<i>Fraxinus species</i>	Ash species
<i>Gleditsia triacanthos</i>	Honey locust
<i>Juniperus virginiana</i>	Red cedar
<i>Populus species</i>	Poplar species
<i>Rhamnus cathartica</i>	Common buckthorn
<i>Rhamnus fragula</i>	Glossy buckthorn
<i>Robina pseudoacacia</i>	Black locust
<i>Taxodium distichum</i>	Bald cypress
<i>Thuja occidentalis</i>	Arbor vitae
<i>Ulmus pumila</i>	Siberian elm

3. *Tree Replacement Exceptions.* Trees removed by or for any of the following reasons need not be replaced provided that the property owner is able to provide documentation that the tree removal met one of the following exceptions:

- a. Emergencies involving, but not limited to tornados, windstorms, floods, freezes, or other natural disasters.
- b. Trees that have become, or immediately threaten to become, a hazard to persons, property or other vegetation and require immediate removal or destruction.
- c. Diseased, dead, or dying trees as confirmed by an arborist, forester, or a qualified professional in the field of natural resources.
- d. All active orchards and state or federal government approved tree farms are exempt from these terms and provisions, but only in relation to those trees which are planted and growing for the sale or intended sale in the ordinary course of business or for a public purpose.
- e. Invasive species such as common buckthorn (*Rhamnus cathartica*), glossy buckthorn (*Rhamnus frangula*), and honeysuckle (*Lonicera sp.*), which are commonly removed as part of good forestry practices and ecological restoration, are not protected tree species.
- f. Trees removed for public roadway and infrastructure improvements and maintenance need not be replaced.

Tree replacement will be required if trees are removed for any other reason or if the property owner is unable to provide sufficient documentation regarding the cause or purpose of the tree remove.

4. *Release of Improvement Guarantees.* Final approval and release of improvement guarantees will not occur until a final inspection by the County confirms that the conditions of this section have been met. In the event that conditions cannot be met, an alternative proposal shall be prepared. If available, a fee in lieu of payment to be determined by the County may be used to meet the objectives of this section.

I. *Wastewater Treatment and Disposal Standards.*

1. Treatment and disposal options that are consistent with state and federal anti-degradation policies shall be utilized. In particular, options that best protect groundwater, wetlands, surface waters, and other natural resources from increased concentrations of nutrients and related pollutants that may impact aquatic life, native plant diversity, and related uses shall be utilized. The McHenry County Department of Health reserves the right to require review by an outside agency or qualified onsite wastewater treatment specialist, including, but not limited to, USDA/NRCS, Illinois Department of Natural Resources, Illinois State Water Survey, and Illinois State Geological Survey.

2. A wastewater treatment option shall be selected and implemented based on its ability to ensure groundwater recharge, beneficial reuse of nutrients, protection of groundwater quality, protection of surface water quality, and protection of environmentally sensitive environments. Shallow groundwater flow direction, projected wastewater flows, projected strength of the wastewater, sensitivity of the receiving environment, recharge capability, potential cumulative impact of the chemical, organic, nutrient and bacterial loading on groundwater, and lifetime cost of the system shall be taken into consideration when selecting the wastewater treatment option.

3. The wastewater treatment system shall comply with the McHenry County Public Health Ordinance. Sites utilizing Illinois Environmental Protection Agency permitted technology shall conform to all of the requirements of the IEPA and receive all applicable permits prior to the Planning and Development Committee recommending approval of the final plat.

J. *Violations And Corrective Action.*

1. If at any time the Zoning Enforcement Officer determines that the open space management entity is in violation of the terms of this Ordinance, the Zoning Enforcement Officer shall give written notice of such violation and demand corrective action sufficient to cure the violation, and where necessary, restore the portion of the property so injured. If the open space management entity fails to cure the violation within thirty (30) days after receipt of notice thereof from the Zoning Enforcement Officer, or, under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to commence or fails to continue to cure such violation until finally cured, the Zoning Enforcement Officer may bring an action in accordance with the enforcement provisions of this Ordinance.

2. If the Zoning Enforcement Officer determines that circumstances require immediate action to prevent or mitigate significant damage to the open space or natural areas the County may pursue its remedies without prior notice to the open space management entity. Under such circumstances, the County may enter dedicated open space areas in order to take corrective action necessary to ensure compliance and the provisions of long-term management and stewardship.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.9; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.76.100 SCHOOL LAND DONATION REQUIREMENTS.**

A. *General Requirement.* As a condition of approval of a final plat or of a planned development, each subdivider may be required to make a school district contribution and dedicate land for school purposes to serve the immediate and future needs of the residents of the development, or required to make a cash contribution in lieu of actual land donation, or a combination of both. The school land donation and/or cash contributions required shall be made in accordance with the criteria and formulas of § 16.60.060 (School Land Donations Or Cash Contribution In Lieu Of Donation).

B. *Land Donation at Preliminary Plat.* If the school district(s) have indicated that they want a school land donation, the school site(s) shall be shown on the preliminary plat with calculations showing the amount of land required to be dedicated for school sites in accordance with the requirements of § 16.60.060 (School Land Donations Or Cash Contribution In Lieu Of Donation). The subdivider shall also furnish a copy of the proposed preliminary plat to each school district in which the proposed subdivision is located and the school district will have thirty (30) days to submit its report to the Staff Plat Review Committee, recommending approval or disapproval of the site shown.

C. *Land Donation or Cash Contribution in Lieu of Land Donation at Final Plat.* All land donations are due upon final plat approval. Areas dedicated for school use shall be indicated on the final plat. Cash contributions are due at the time of building permit issuance. The final plat shall include a statement that school land donations have (or have not) been made at the time of subdivision. The statement shall further indicate that a fee in lieu of donation will (or will not) be required at the time of issuance of a residential building permit.

D. *Cash Contribution in Lieu of Land Donation at Building Permit.* Where a school land donation has not been provided at the time of approval of the subdivision or of a planned development or on other lands not subdivided, the County retains the right to require a fee in lieu of donation at the time of issuance of a residential building permit. The

cash contributions shall be made in accordance with the criteria and formulas of § 16.60.060 (School Land Donations Or Cash Contribution In Lieu Of Donation).

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 19.10; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## CHAPTER 16.80: NONCONFORMITIES

### Section

- 16.80.010 Purpose
- 16.80.020 General standards of applicability
- 16.80.030 Nonconforming uses
- 16.80.040 Nonconforming structures
- 16.80.050 Nonconforming lots of record
- 16.80.060 Nonconforming signs

### § 16.80.010 PURPOSE.

The purpose of this chapter is to provide for the regulation of nonconforming structures, lots, and uses, and to specify those circumstances and conditions under which nonconforming structures and uses are eliminated.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 20.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.80.020 GENERAL STANDARDS OF APPLICABILITY.

#### A. *Authority to Continue.*

1. Any use, structure, lot, or sign that existed as a lawful nonconformity at the time of the adoption of this Ordinance, and any structure, lot, or use that has been made nonconforming because of the terms of this Ordinance or any subsequent amendments, including map amendments, may continue subject to the provisions of this chapter so long as it remains otherwise lawful.

2. If property is used in a manner that was classified as a permitted use prior to the effective date of this Ordinance, and that use is now classified as a conditional use as of the effective date of this Ordinance, that use is deemed a nonconforming use. Such uses are allowed to continue and are controlled by the provisions of this chapter. However, any addition, enlargement, or expansion of the use is required to obtain a conditional use permit at the time of the addition, enlargement, or expansion.

3. A use, structure, lot, or sign that is unlawful at the time of the adoption of this Ordinance remains unlawful if it does not conform with each and every requirement of this Ordinance. A use, structure, or sign is unlawful when present on an unlawful lot. An unlawful use, structure, or sign is a violation of this Ordinance and subject to Chapter 16.84 (Enforcement).

B. *Burden on Property Owner to Establish Status.* In all cases, the burden of establishing the status of a nonconformity are upon the property owner of the structure, use, or lot.

C. *Safety Regulations.* All regulations enacted to promote public health, safety, and welfare including, but not limited to, all building, fire, and health codes, apply to nonconformities.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 20.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

### § 16.80.030 NONCONFORMING USES.

A. *Definition of Nonconforming Use.* A nonconforming use is the use of land or use of a structure that, as of the effective date of this Ordinance or any subsequent amendments, including map amendments, is used for purposes that are not allowed in the zoning district in which it is located, provided that the property owner can document that the use was in conformance with the zoning ordinance in effect as of the date that the use was established or that the property owner can provide documentation to the satisfaction of the Zoning Enforcement Officer that the agricultural, single- or two-family residential, or residential accessory use existed prior to, March 1, 2005, regardless of if such agricultural, single- or two-family residential, or residential accessory use was lawful at the time of establishment.

B. *Ordinary Repairs and Maintenance.* Maintenance and repair may be performed on any structure that is used in whole or in part for a nonconforming use, provided it will not create any new nonconformity, increase the degree of nonconformity, or increase the bulk of the structure in any manner.

#### C. *Expansions and Relocations.*

1. A nonconforming use of land or a structure cannot be expanded, extended, enlarged, or increased in intensity. Such prohibited activity includes, without limitation:

- a. Expansion of any structure devoted entirely to a nonconforming use.
- b. An expansion, extension, or relocation of a nonconforming use or its accessory uses to any land area or structure not currently occupied by such nonconforming use, except where a residential dwelling is a nonconforming use in a zoning district, additions and the construction of a private garage as an accessory use is permitted.
- c. An expansion, extension, or relocation of a nonconforming use within a structure, including its accessory uses, to any portion of the floor area that was not occupied by such nonconforming use.

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

D. *Structural Alterations, Damage, or Destruction.* For the purposes of this Section, structural alterations conducted without proper approval are treated as damage or destruction.

1. No structural alterations are permitted on any structure used in whole or in part for a nonconforming use, except in the following situations:

- a. When the structural alteration is required by law or is necessary to restore the structure to a safe condition, upon the order of any official charged with protecting the public safety.
- b. When the structural alteration is for the purpose of eliminating the nonconformity.
- c. When the structural alteration will not create any new nonconformity, increase the degree of any existing nonconformity, or increase the bulk of the structure in any manner, and the cost of the structural alteration is less than fifty percent (50%) of the replacement value at that time (per the methodology of this Section).

2. In the event that any structure that is used, in whole or in part, to a nonconforming use, is damaged or destroyed to the extent of fifty percent (50%) or more of its replacement value at that time, then the nonconforming use cannot be continued unless the use conforms to all regulations of the zoning district in which it is located.

3. In the event that any structure that is devoted, in whole or in part, to a nonconforming use is damaged or destroyed to the extent of less than fifty percent (50%) of the replacement value at that time, the structure may be repaired, reconstructed or restored and the nonconforming use continued, provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit must be obtained for such rebuilding, restoration, repair, or reconstruction within one (1) year of the date of damage or destruction.

4. The replacement value of the structure, which is devoted, in whole or in part, to a nonconforming use, is based on: 1) the sale of that structure, excluding the value of the land, within the previous year or, if that is not applicable; 2) an appraisal within the last two (2) years or, if that is not available; 3) the amount for which the structure was insured prior to the date of damage or destruction or, if that is not available; 4) an alternative method determined acceptable by the County.

5. The amount of damage to a structure is equal to the repair cost of bringing that structure to its original conditions prior to the damage or destruction. Calculation of the repair cost must include all materials and market rate labor to reconstruct to the same quality or value. If the structure is located in the floodway or floodplain, it must also consider value of all home improvements over the last ten (10) years. Repair costs will be reviewed utilizing published construction estimating guide(s).

E. *Change of Use.* A nonconforming use cannot be changed to any use other than those allowed within the zoning district in which it is located. When such a nonconforming use has been changed, in whole or in part, to an allowed use, the whole or part that has been made to conform cannot be changed back to a use that is prohibited. A change of use occurs when an existing nonconforming use has been terminated and another use has commenced. Any change in use in violation of this Ordinance is deemed an immediate abandonment of the previously existing nonconforming use and cannot be changed back to the previous nonconforming use.

F. *Discontinuation or Abandonment.* If a nonconforming use is discontinued or the structure that it occupies becomes vacant and remains unoccupied for a continuous period of one (1) year, such use is deemed abandoned and cannot be reestablished or resumed regardless of the intent to resume or to continue the use. Any subsequent use or occupancy of such land or structure must comply with all regulations of the zoning district in which such land or structure is located. The following exceptions apply:

1. If the period of such discontinuance is caused by government action or acts of God, it is not included in calculating the length of discontinuance.
2. If the property owner files notice in writing of the suspension of a nonconforming use with the Zoning Enforcement Officer prior to the expiration of the one-year (1-year) timeframe of allowed discontinuance, the Zoning Enforcement Officer may approve an extension of such timeframe for one (1) additional year. Notice must show good cause for allowing a suspension of a nonconforming use to exceed the one (1) year permitted by this section. Failure to file such notice is deemed as intent to abandon the nonconforming use. Once all suspension periods have expired, the nonconforming use is deemed abandoned and cannot be resumed.

G. *Accessory Uses.* No use that is accessory to a principal nonconforming use shall continue after such principal use has ceased or terminated.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 20.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.80.040 NONCONFORMING STRUCTURES.**

A. *Definition of Nonconforming Structure.* If an existing structure conformed to the district bulk and setback requirements of this Ordinance prior to the effective date of this Ordinance or if the propertyowner can document to the satisfaction of the Zoning Enforcement Officer that the agricultural, single- or two-family-residential, or residential accessory structure existed prior to March 1, 2005, regardless of if such agricultural, single- or two-family residential, or residential accessory structure conformed to district bulk and setback requirements of this Ordinance at the time of construction, and such structure does not meet all standards set forth in this Ordinance, that structure is deemed a legal nonconforming structure.

B. *Ordinary Repairs and Maintenance.* Maintenance and repair may be performed on any nonconforming structure. No repairs or reconstruction are permitted that would create any new nonconformity or increase the degree of any previously existing nonconformity.

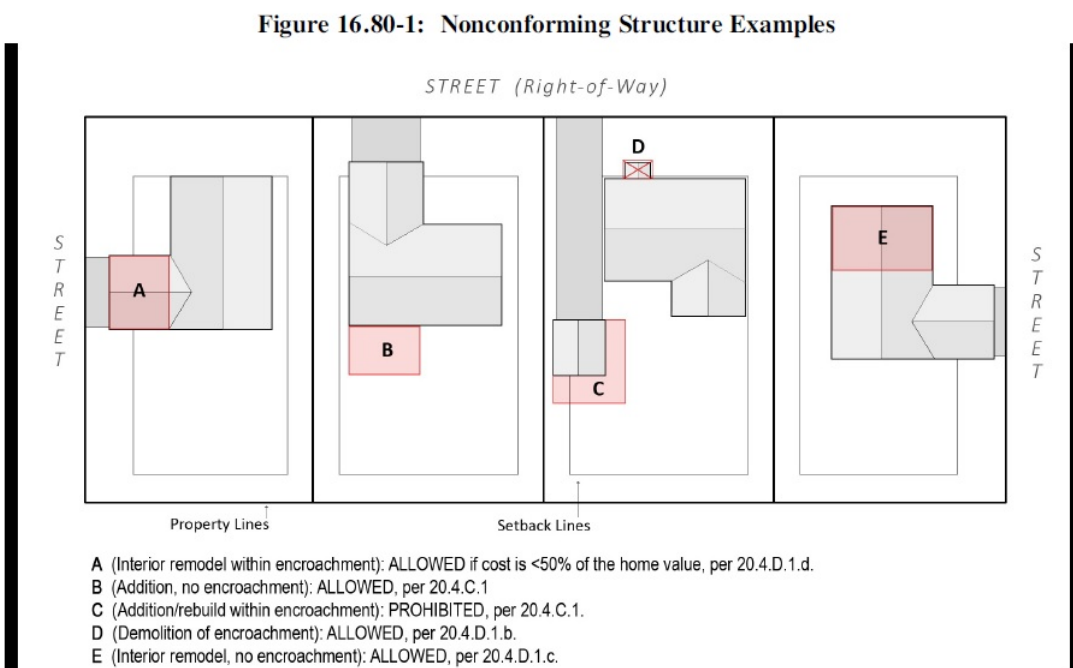
C. *Expansions and Relocations.*

1. A structure that is nonconforming with respect to the bulk requirements and setbacks for the zoning district in which it is located cannot be added to or enlarged unless specifically permitted by this Ordinance.
2. No nonconforming structure may be relocated, in whole or in part, to any other location on the same or any other property, unless the entire structure thereafter conforms to all regulations of the zoning district in which the structure is relocated. This provision shall not be interpreted as prohibiting the elevation of a nonconforming structure for the purpose of flood proofing or flood repair.

D. *Structural Alterations, Damage, or Destruction.* For the purposes of this Section, structural alterations conducted without proper approval are treated as damage or destruction.

1. No structural alterations are permitted for any nonconforming structure, except in the following situations:
  - a. When the structural alteration is required by law or is necessary to restore the structure to a safe condition, upon the order of any official charged with protecting the public safety.
  - b. When the structural alteration will result in eliminating the nonconformity.
  - c. When the structural alteration is located entirely in a portion of the structure that complies with bulk requirements and setbacks, will not create any new nonconformity, increase the degree of any existing nonconformity, or increase the bulk of the structure in any manner.
  - d. When the structural alteration is located in a portion of the structure that does not comply with bulk requirements or setbacks for the zoning district in which it is located, will not create any new nonconformity, increase the degree of any existing nonconformity, or increase the bulk of the structure in any manner, and the cost of the structural alteration is less than fifty percent (50%) of the replacement value of the structure at that time.
  - e. When specifically permitted by this Ordinance.

**Figure 16.80-1: Nonconforming Structure Examples**



2. In the event that any nonconforming structure is damaged or destroyed to the extent of fifty percent (50%) or more of its replacement value at that time, then the structure cannot be restored or rebuilt unless the structure is made to conform to all regulations of the zoning district in which it is located.



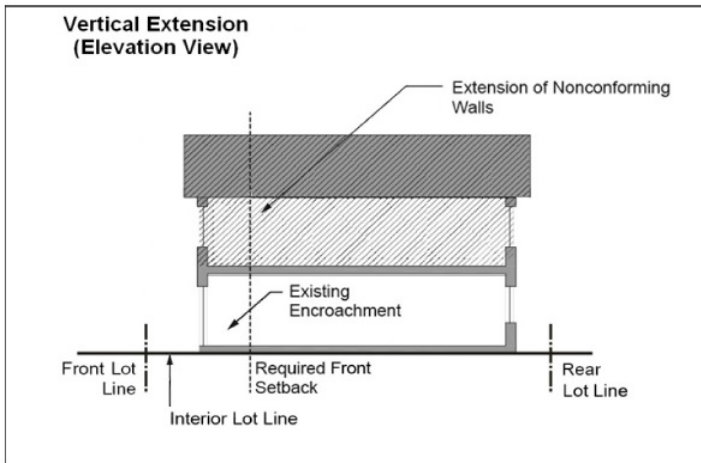
3. When such a structure is damaged or destroyed to the extent of less than fifty percent (50%) of the replacement value at that time, it may be repaired and reconstructed provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit must be obtained for such rebuilding, restoration, repair, or reconstruction within one (1) year of the date of damage or destruction.

4. The replacement value of the nonconforming structure is based on: 1) the sale of that structure, excluding the value of the land, within the previous year or, if that is not applicable; 2) an appraisal within the last two (2) years or, if that is not available; 3) the amount for which the structure was insured prior to the date of damage or destruction or, if that is not available; 4) an alternative method determined acceptable by the County.

5. The amount of damage to a structure is equal to the repair cost of bringing that structure to its original conditions prior to the damage or destruction. Calculation of the repair cost must include all materials and market rate labor to reconstruct to the same quality or value. If the structure is located in the floodway or floodplain, it must also consider value of all home improvements over the last ten (10) years. Repair costs will be reviewed utilizing published construction estimating guide(s).

E. *Extension of Walls for Nonconforming Single-Family and Two-Family Dwellings.* Where a single-family or two-family dwelling is a legal nonconforming structure because of encroachment into the required street setback, the structure may be enlarged or extended vertically along the same plane as defined by its existing perimeter walls, so long as the resulting structure complies with the required side yard setbacks and does not increase the degree of the existing nonconformity or otherwise violate this Ordinance. (See Figure 16.80-2: Vertical Extension of Nonconforming Walls)

Figure 16.80-2: Vertical Extension of Nonconforming Walls



(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 20.4; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

#### § 16.80.050 NONCONFORMING LOTS OF RECORD.

A. *Definition.* A nonconforming lot or parcel is a tract of land designated on a duly recorded subdivision plat, or by a duly recorded deed, or by other lawful means that comply with the lot area, lot width, lot frontage and other dimensional standards of the zoning district in which it was located at the time of its creation, but that does not comply with the minimum lot area, lot frontage or other dimensional requirement of the zoning district in which it is now located.

##### B. *Individual Lots or Parcels of Record.*

1. An existing nonconforming lot or parcel of record may be used for a use allowed within the zoning district in which it is located, provided that the structure meets all district bulk and setback requirements. Non-conforming lots and portions of multiple non-conforming lots may be combined into a new non-conforming lot as long as the resulting lot is more conforming with respect to lot area, lot width, lot frontage, and other dimensional standards of the zoning district in which it is located.

##### C. *Lots or Parcels Deemed Conforming.* Lots or parcels created as a result of the following actions are deemed conforming for the purposes of this Ordinance:

1. When land area is acquired by a government agency for expansion of right-of-way.
2. When the action of waterways that forms the boundaries of a lot reduce the lot area.
3. When property lines are established by a court order in order to settle a boundary dispute between adjacent property owners.

D. *Reduced Setbacks.* Setbacks for single-family dwellings and residential accessory structures that are on lots or parcels deemed nonconforming due to insufficient width may be reduced from the setbacks established by the bulk and setback tables of this Ordinance in the following manner:

1. On interior lots or parcels less than one-hundred (100) feet width, the setback from one interior side lot line may be reduced to ten (10) feet and the setback from the other interior side lot line may be reduced to ten (10) percent of the width of the lot. This reduction applies to both principal and accessory structures, either of which may be used to establish which side setback may be reduced to 10-percent (10%) of the width of the lot.

2. On interior lots or parcels over one-hundred (100) feet in width, the setback from the interior side lot lines may be reduced to ten (10) feet.

3. On corner lots, the setback from the interior side lot line may be reduced to ten (10) feet and the setback from the corner side lot line may be reduced to twenty (20) feet.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 20.5; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018; Ord. O-201911-ZBA-057, passed 11-19-2019)

#### § 16.80.060 NONCONFORMING SIGNS.

A. A nonconforming sign may remain in use, so long as it remains otherwise lawful, meets the requirements of this section, and has not been damaged, destroyed, or structurally altered as described in subsection D. below. The sign face of an existing nonconforming sign may be replaced.

B. No nonconforming sign may be relocated, in whole or in part, to any other location on the same or any other property unless the entire sign thereafter conforms to all regulations of the zoning district in which the sign is relocated.

C. No nonconforming sign may be structurally altered or enlarged in a way that increases the nonconformity of the sign. This in no way precludes normal maintenance and cleaning or changing of the sign face.

D. In the event that any nonconforming sign is damaged, destroyed, or structurally altered to the extent of fifty percent (50%) or more of its replacement value at that time, then the sign cannot be restored or rebuilt unless the sign is made to conform to all regulations of the zoning district in which it is located.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 20.6; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

## CHAPTER 16.84: ENFORCEMENT

- 16.84.010 Failure to comply
- 16.84.020 Violations
- 16.84.030 Continuation of previous enforcement actions

**§ 16.84.010 FAILURE TO COMPLY.**

- A. Failure to comply with any of the requirements of this Ordinance constitutes a petty offense, and any person upon conviction of a failure to comply may be fined not more than five hundred dollars (\$500.00) with each week the violation continues constituting a separate offense. The minimum fine shall be one hundred dollars (\$100.00).
- B. Any person who commits, participates in, assists in, or maintains such violations may be found guilty of a separate offense and subject to the above penalties.
- C. The County may also take other lawful action as is necessary to prevent or remedy any violation.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 21.1; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.84.020 VIOLATIONS.**

A. In case any structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any structure or land is used in violation of any ordinance, resolution, or other regulation made under authority conferred by State of Illinois statute, the proper authorities of the County, or any person, the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in the Circuit Court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

B. The remedies and enforcement powers established in this Ordinance shall be cumulative, and the County may exercise them in any order. The owner or tenant of any structure, premises or part thereof, and any architect, builder, contractor or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to the above penalties.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 21.2; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**§ 16.84.030 CONTINUATION OF PREVIOUS ENFORCEMENT ACTIONS.**

Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions, undertaken by the County, pursuant to previous and valid ordinances and laws.

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, § 21.3; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**APPENDICES**

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Appendix

- Appendix A: Required certificates and forms
- Appendix B: Overlay districts reference maps
- Appendix C: Best management practices for wind energy systems
- Appendix D: Road classification map

**APPENDIX A: REQUIRED CERTIFICATES AND FORMS.**

Appendix A Certificates and Forms available in PDF format for ease of printing, click [HERE](#)

A. **REQUIRED CERTIFICATES: PRELIMINARY PLATS.** The following wording is recommended for all required certificates:

**Municipal Planning Commission Approval**

STATE OF ILLINOIS )  
 )ss  
 County of McHenry )  
 Approved by the Planning Commission of the (village/city) of (name) this (day) of (month, year).  
 (signature)  
 Chairman

**Township Highway Commissioner's Approval**

STATE OF ILLINOIS )  
 )ss  
 County of McHenry )  
 Approved by the (name) Township Highway Commissioner this (date) of (month, year).  
 (signature)  
 Township Highway Commissioner

**Soil Classifier's Certification**

I, (name), hereby certify that the soil mapping represented on Sheet 2/this sheet was done by me in accordance and complies with the subdivision requirements of the McHenry County Unified Development Ordinance.  
 (date, signature)

**Planning and Development Committee Approval**

This tentative plat approved by the Planning and Development Committee of the McHenry County Board this (date) of (month, year).  
 By  
 (signature)  
 Chairman, Planning and Development Committee

NOTE:

This approved tentative plat must be submitted with the final plat on or before (date) of (month, year). Failure to submit final plat by, on or before such date will void this approval of tentative plat.

B. *REQUIRED CERTIFICATES: FINAL PLATS.* The following wording is recommended for all required certificates:

**Certificate Indicating Proximity to Municipalities**

(Choose appropriate certificate)

Option 1:

This plat of subdivision does not lie within 1-1/2 miles of any existing corporate municipalities.

(signature)  
Illinois Land Surveyor

**Option 2:**

This plat of subdivision lies within 1-1/2 miles of the following corporate municipality or municipalities: (list)

(signature)  
Illinois Land Surveyor

**Certificate Indicating Approval by Municipality**

Approved by the (village/city) of (name) at a meeting held this (day) of (month, year).

(signature) (signature)  
President/Mayor Clerk

**Developer Donation to School Districts**

Option 1: Land Donation

In accordance with the School Developer Donation Requirements of the McHenry County Unified Development Ordinance, a land donation has been made. A letter (or signed agreement) confirming this donation, signed by the Superintendent of (school district name and number) and acknowledged by the Regional Superintendent of Schools, and has been recorded as Document #\_\_\_ in the County Recorder's Office.

Option 2: Incorporated Municipality within 1-1/2 Miles School Contribution

An agreement has been entered into between the owner and the (Village/City) of (name) to meet the school contribution requirements of that municipality. That agreement has been counter-signed by the Regional Superintendent of Schools acknowledging the contribution to be at least equal to that required by County ordinance and recorded as Document #\_\_\_ in the County Recorder's Office.

Option 3: Cash Donation

Developer donations to school district(s) (list district numbers) will be made in accordance with School Developer Donation Requirements of the McHenry County Unified Development Ordinance.

**Owner's Certificate and Notary Certificate**

Owner's Certificate

STATE OF ILLINOIS )  
)ss

County of McHenry )

This is to certify that the undersigned, (names), is/are the legal owner(s) of record of the land described on the plat hereon drawn and shown hereon as subdivided, and that he/she/they has/have caused said land to be surveyed, subdivided, staked, and platted as shown hereon, for the purpose of having this plat recorded as provided by law.

In witness whereof I/we have hereunto set my/our hand(s) and seals this (day) of (month, year).

(Seal)

Notary Certificate

STATE OF ILLINOIS )  
)ss

County of McHenry )

I, (name), a Notary Public in and for said county and State aforesaid, do hereby certify that (list names), personally known to me to be the same person(s) whose name (s) is (are) subscribed to the foregoing instrument as such owner(s) appeared before me this day in person and acknowledged that he/she/they signed and delivered the annexed plat as his/her/their own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this (day) of (month, year) at (location) Illinois.

(signature)  
Notary Public  
My Commission Expires (date)

**Township Highway Commissioner's Certificate and Notary Certificate**

I, (name), do hereby certify that this final plat and accompanying engineering drawings meet all requirements of the McHenry County Unified Development Ordinance pertaining to township roads. I hereby agree to accept and maintain the township roads of this subdivision upon their completion in accordance with the laws of the State of Illinois.

(signature)  
(Name)  
Township Highway Commissioner

Given under my hand and notarial seal this (day) of (month, year) at (location) Illinois.

(signature)  
Notary Public  
My Commission Expires (date)

**Surveyor's Certificate**

This is to certify that I, (name), as Illinois Land Surveyor No. (number), have surveyed and subdivided the property as described and as shown by the annexed plat, which is a correct representation of said survey and subdivision. All distances are shown in feet and decimals thereof.

Given under my hand and notarial seal this (day) of (month, year) at (location) Illinois.

**Certificate Regarding Flood Hazard**

*(Choose appropriate certificate)*

Option 1:

I certify that none of the above described property is located in a flood hazard area as identified by the Federal Emergency Management Agency.

(signature)  
Illinois Land Surveyor

Option 2:

I certify that none of the above described property is located in a flood hazard area as identified by the. Federal Emergency Management Agency except as indicated on (community & panel no.)

(signature)  
Illinois Land Surveyor

**Certificate Regarding Monuments**

This to certify that I, (name), as Illinois Land Surveyor No. (number), have set all subdivision monuments and described them on this final plat as required by the Plat Act of the Illinois Revised Statutes.

(signature)  
Illinois Land Surveyor

**Local Health Department Certificate**

No public sewer system exists to serve this subdivision. This plat is approved with respect to on- site sewage disposal and the acreage involved has been reviewed in accordance with established soil suitability evaluation procedures.

(signature)  
Public Health Administrator

**County Clerk's Certificate**

STATE OF ILLINOIS )

)ss

County of McHenry )

I, (name), County Clerk in McHenry County, Illinois do hereby certify that there are no delinquent general taxes, no unpaid current general taxes, no unpaid forfeited taxes, and no .redeemable tax against any of the land included in the annexed plat.

I further certify that I have received all statutory fees in connection with the annexed plat.

Given under my hand and seal of the County at Woodstock, Illinois this (day) of (month, year).

(signature)  
County Clerk

**Planning and Development Committee Certificate**

STATE OF ILLINOIS )

)ss

County of McHenry )

Approved this (day) of (month, year).

(signature)  
Planning and Development Committee Chairman  
(signature)  
Zoning Enforcement Officer

**Easement Crossing Certificate**

All easements indicated as road construction and maintenance easements adjacent to road rights-of-way on this plat are reserved for and granted to the Township of (name), or the County of McHenry, their successors and assigns, for road construction and maintenance including maintenance of drainage ditches and slopes. Said easement may be crossed perpendicularly by driveways and utilities and drainage or retention/detention easements with the consent of the grantee. Said grantee reserves the right to cut trim, or remove trees, bushes and roots as may be reasonably required incident to the rights herein given, and the right to enter upon said property for all such purposes.

**Covenants and Restrictions**

Covenants and restrictions covering this plat of subdivision have been recorded as Document No. (number).

**Act in Relation to the Regulation of Rivers, Lakes and Streams Certificate**

STATE OF ILLINOIS )

)ss

County of McHenry )

Approved by the Department of Transportation of the State of Illinois insofar as this subdivision plat, showing lands bordering upon or including public waters of the State of Illinois, relates to the provisions of section 7 of "An Act in relation to the Regulation of Rivers, Lakes, and Streams of the State of Illinois" approved June 10, 1911, as amended, requiring review and approval by said Department as to the boundary line between private interests and public interests.

Dated at Springfield, Illinois, this (day) of (month, year).

Approval recommended: (signature)

Director, Division of Water Resources

State of Illinois, by its Department of Transportation

By: (signature)  
Secretary

**Township Highway Commissioner's Certificate**

STATE OF ILLINOIS )

)ss

County of McHenry )

I, (name), do hereby certify that this plat of vacation meets all requirements of the McHenry County Unified Development Ordinance pertaining to roads. I hereby acknowledge and accept the vacation of (list rights-of-way names and widths) in accordance with the laws of the State of Illinois.

(signature)

(Name)

Township Highway Commissioner

Given under my hand and notarial seal this (day) of (month, year) at (location) Illinois.

(signature)

Notary Public

My Commission Expires (date)

**Utility and Cable TV Company Easements**

In accordance with the requirements of the McHenry County Unified Development Ordinance pertaining to plats of vacation, the following utility companies (list of all companies involved) have acknowledged and approved in writing the vacation of easements as set forth on this plat and recorded as Document No. (numbers) in McHenry County Recorder's Office this (day) of (month, year).

**Certificate Indicating Approval by Municipality**

This plat of vacation approved by the (village/city) of (name) at a meeting held this (day) of (month, year).

(signature)

(signature)

President/Mayor

Clerk

D. *REQUIRED FORMS: LETTER OF CREDIT.* The following is required for all letters of credit:

**Letter of Credit**

To: McHenry County Building and Zoning Department

We hereby issue our irrevocable letter of credit in favor of the McHenry County Building and Zoning Department on behalf of (parties), in the total amount of (amount). This letter of credit is issued in place of a bond guaranteeing construction and subdivision improvements. The subdivision improvements are set forth in the drawings and specifications attached hereto and made a part thereof.

In the event of the non-performance by the beneficiary to complete these improvements by (date) we hereby authorize the McHenry County Building and Zoning Department on behalf of the County of McHenry to draw the total amount of this irrevocable letter of credit.

This irrevocable letter of credit established by us shall expire only on written release by the McHenry County Building and Zoning Department, the Township Highway Commissioner, and the engineer engaged by the owner to supervise construction. This irrevocable letter of credit shall remain in effect without regard to any default in payments owed us by the beneficiary. The consideration for this letter of credit is provided by agreements between the financial institution and the beneficiary herein and the approval of the (name of subdivision) plat by the McHenry County Board.

E. *REQUIRED FORMS: FORM OF AGREEMENT ACCOMPANYING SECURITY.* The following is required for all forms of agreement accompanying security:

Form of Agreement

This agreement made this (day) of (month, year) by developer, hereinafter called the developer, and the County of McHenry, a body politic and corporate, hereinafter called County.

The developer is the owner of certain lands lying within McHenry County, Illinois, and intends to develop and improve said lands.

The developer has submitted to the County of McHenry, Illinois, a final plat of subdivision, said subdivision being known as (name of subdivision).

The developer has contemporaneously herewith submitted plans and specifications for required land improvements, and has retained (name), a professional engineer, to establish lines and grades for all earth-work and drainage and to exercise general supervision as construction progresses all pursuant to the provisions of the McHenry County Unified Development Ordinance.

The developer desires to evidence his agreement to make and install the required land improvements pursuant to the provisions of said regulations.

IT IS HEREBY AGREED, in consideration of the approval by the County Board of McHenry County, Illinois, of the final plat of subdivision of (name of subdivision), as follows:

1. The developer does hereby agree and undertake to make and install all improvements made and specified and approved by the Staff Plat Review Committee of McHenry County and the McHenry County Board, according to the provisions of the McHenry County Unified Development Ordinance in accordance with the following schedule:

A. All work except the bituminous surface and seeding, by (date).

B. The bituminous surface and seeding, by (date).

2. The developer does further agree to deliver to the County of McHenry securities in the total amount of (amount), said securities designed to guarantee the completion of all improvements referred to in Paragraph 1 above in accordance with the plans and specifications submitted and approved by the County Board of McHenry County. It is understood that in the event that said improvements are not installed on or before the dates set forth in Paragraph 1, said securities shall be in default and the County of McHenry shall be entitled to present demands for delivery of the funds secured through the security.

IN WITNESS WHEREOF, the developer and the County of McHenry have caused this agreement to be executed the day and year written above.

COUNTY OF MCHENRY, ILLINOIS, a body politic and corporate

By

(signature)

Chairman of the County Board

ATTEST:

(signature)

(signature)

County Clerk

Developer

BY

(signature)

(capacity of party signing for developer)

F. *REQUIRED FORMS: AFFIDAVIT OF OWNERSHIP.* The following form is required for an affidavit of ownership, as applicable (legal owner of record, land trust, mortgage company):

Legal Owner of Record

STATE OF ILLINOIS )  
 )ss  
County of McHenry )

AFFIDAVIT OF OWNERSHIP

The undersigned, being first duly sworn on oath deposes and states as follows:

That he/she is the legal owner of record of the following described real estate:

(insert or attach legal description)

which will be subdivided as shown on a plat of subdivision entitled (subdivision name)

That the above described property does not have an outstanding mortgage and/or is not included in a land trust, and,

That he/she has the legal authority to cause his signature to be placed on the plat of subdivision above noted.

FURTHER AFFIANT SAYETH NOT

By

(signature)

(print or type name)

Subscribed and sworn to before me this (day) of (month, year)

(signature)

Notary Public

My Commission Expires (date)

Land Trust

STATE OF ILLINOIS )  
 )ss

County of McHenry )

AFFIDAVIT OF OWNERSHIP

The undersigned, being first duly sworn on oath deposes and states as follows:

That they are the trustees of a land trust, being Land Trust No. (number) of (name of entity and address) of the following described real estate:

(insert or attach legal description)

which will be subdivided as shown on a plat of subdivision entitled (subdivision name)

That they have given their consent to the beneficiary(ies) of the aforementioned land trust to cause the above described property to be subdivided, and

That they have the legal authority to cause their signature as trustee of said land trust to be placed on the plat of subdivision above noted.

FURTHER AFFIANT SAYETH NOT

By (trust officer)

(signature)

(print or type name)

Subscribed and sworn to before me this (day) of (month, year)

(signature)

Notary Public

My Commission Expires (date)

Mortgage Company

STATE OF ILLINOIS )  
 )ss

County of McHenry )

AFFIDAVIT OF OWNERSHIP

The undersigned, being first duly sworn on oath deposes and states as follows:

That they are the mortgagee on the following described real estate:

(insert or attach legal description)

which will be subdivided as shown on a plat of subdivision entitled (subdivision name)

That they have given their consent to (name) the mortgagor, to cause the above described property to be subdivided and place his signature on the plat of subdivision above noted.

FURTHER AFFIANT SAYETH NOT

By

(signature)

(print or type name)

Title:

For:

Subscribed and sworn to before me this (day) of (month, year)

(signature)

Notary Public

My Commission Expires (date)

**G. REQUIRED AGREEMENTS: SCHOOL INDEMNIFICATION.**

**Agreement Regarding the School Land Donation Or Cash Contribution In Lieu Of Donation Indemnification**

**WHEREAS**, the County of McHenry, Illinois, on behalf of itself, its officers, employees and independent contractors (the "County"), through its ordinances requires that developers make contributions to the County, that the County, in turn, may make available for other government bodies that are affected by the subdivision improvements; and

**WHEREAS**, such contributions may be in land or in money and, when transferred or paid over to those government bodies, inure to the benefit of those government bodies and not entirely to the direct benefit of the County; and

**WHEREAS**, from time to time within the County, and within other municipalities, disputes have arisen regarding the validity and amount of such contributions; and

**WHEREAS**, the County is willing, at its discretion, to continue seeking the contribution of land or money but wishes to procure a commitment from other government bodies benefited by the receipt of such contributions that those government bodies will (a) acknowledge that the requirement that such contributions be made are totally within the discretion of the County as to their existence, manner and amount; (b) the other government body that benefits from the contribution will pay the cost of defending any lawsuit that is filed challenging the appropriate amount of the contributions, the time at which they are to be made or any other aspect of the contributions; and (c) that the benefited government body will comply with the terms of a final and non-appealable judicial determination by a court of competent jurisdiction rendered in connection with the lawsuit; and

**WHEREAS**, the County is willing, in its discretion, to pay over or require contributions only to other government bodies that execute this Agreement;

**NOW, THEREFORE, IT IS AGREED** between the County on behalf of itself and its officers, employees, and independent contractors, and \_\_\_\_\_, a government body within the State of Illinois (the "Benefiting Government"), and in consideration for the payment of money or the transfer of the land to the Benefiting Government, which the County from time to time may within its discretion cause to be made by developers, the Benefiting Government does agree, as follows:

1. The Benefiting Government acknowledges that, except as otherwise provided in the County's ordinances, the County is not obligated to cause the payment of money or the transfer of land to the Benefiting Government. The Benefiting Government recognizes that the County may, at its sole discretion, amend its ordinances or annexation agreements or its practices to discontinue the payment of contributions to the Benefiting Government.
2. In the event a lawsuit is filed against the County, the Benefiting Government, and/or others by any person, corporation, or entity that challenges the appropriateness, amount, timing or any other aspect of a contribution that, pursuant to the terms of the County's ordinances, has been paid or is due to the Benefiting Government, then the Benefiting Government agrees to execute a Joint Cost Sharing and Litigation Management Agreement in Defense of McHenry County Ordinances.
3. In further consideration of the continued payment by the County to the Benefiting Government of the subject contributions of land or money, the Benefiting Government agrees that its obligations under a Joint Cost Sharing and Litigation Management Agreement in Defense of McHenry County Ordinances shall extend to both past and future cash and land contributions.
4. On or before June 1st of each year, every Benefiting Government that receives payments from the County under this Agreement shall submit a report to the County describing the manner in which the payments have been used. When this Agreement provides that money turned over to Benefiting Government is to be used for a specific purpose or within a specific time period, the report shall address those issues. If the Benefiting Government should fail to file such a report with the County, the County may delay the payment of any additional funds due the Benefiting Government until such time as a full report containing adequate information is transmitted to the County. The Benefiting Government shall also execute this Agreement, and any related agreements, and shall do so on or before June 1st of each year thereafter. The Benefiting Government shall also pass a resolution that dedications of land or cash contributions in lieu thereof are an integral part of the efforts of the Benefiting Government to address the impact of growth within its jurisdiction.
5. This Agreement shall be terminated by either party for any reason or no reason at all upon 30 days prior written notice to the other party evidencing the intention to so terminate this Agreement. But the termination of this Agreement shall not affect the continuing obligation of the Benefiting Government or the County with regard to claims or damages allegedly arising out of the County's efforts prior to termination to distribute contributions, or to the actual distribution of contributions.

DATED this \_\_\_\_\_ day of, 20\_\_

**County of McHenry**                      **Benefiting Government:**

County Chairman	Title:
(SEAL)	(SEAL)
ATTEST:	ATTEST:
_____	_____
County Clerk	Secretary

**Agreement Regarding a Delay in Receipt of Cash Contributions**

The County of McHenry (the "County") and \_\_\_\_\_, ("Developer") agree as follows:

The County has approved a final plat of subdivision or a final plat of a planned development at the request of Developer for the real estate legally described in Exhibit 1 attached hereto and made a part hereof (the "Land"). Accordingly, pursuant to the McHenry County Unified Development Ordinance, certain cash contributions in lieu of dedications for school lands are immediately due the County from the Developer.

1. Developer has, however, requested that the payment of the aforesaid cash contributions be delayed and that the same become due and payable on a per dwelling unit basis at the time the County issues a building permit for the particular dwelling unit.
2. In consideration for the County agreeing to delay its receipt of the cash contributions in accordance with Paragraph 1 above, Developer hereby agrees as follows:
  - a. The amount of cash contributions owed shall be calculated based upon Chapters 16.60 and 16.76 of the McHenry County Unified Development Ordinance or as provided in such other future ordinance amending or replacing said ordinance which is in effect at the time of the issuance of a building permit; and
  - b. Notwithstanding any present or future law, regulation and/or legal precedent to the contrary, the unit of local government that is the ultimate recipient of the subject cash contributions may expend such contributions for any of the following purposes intended to serve immediate or future needs of the residents and children of the Developer's subdivision or planned development: (1) for the acquisition of land; (2) for site improvements such as, by way of example, streets, curbs, gutters, stormwater control and utility extensions; (3) for construction of capital facilities, including, by way of example, new buildings and structures, and the expansion or enhancement of existing buildings and structures; and (4) for so-called soft costs directly related to the foregoing items (2) or (3) such as architectural and engineering costs.
3. This Agreement constitutes a covenant that is appurtenant to and runs with the Land. Either this Agreement or a memorandum thereof may be recorded against legal title to the Land either party hereto; provided, however, it shall be a condition of the County's issuance of the first building permit for a dwelling unit on the Land that Developer shall provide satisfactory evidence to the County that this Agreement or a memorandum thereof has been recorded against legal title to the Land.
4. Developer represents and warrants to the County that it is the sole holder of record fee title to the Land.

IN WITNESS WHEREOF, the County and the Developer have caused this Agreement to be duly authorized, executed and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ A.D.,

County Chairman	Developer
ATTEST: _____	
County Clerk	

H. *REQUIRED CERTIFICATES: CONSERVATION DESIGN.*

**Application for Special Service Area for Long-Term Open Space and Stormwater Management**

**County of McHenry, Illinois**

**Application for a Special Service Area for Long-Term Open Space and Stormwater Management**

**Applicant:**  
 Name \_\_\_\_\_  
 Company \_\_\_\_\_  
 Address \_\_\_\_\_



City, State, ZIP \_\_\_\_\_  
 Phone \_\_\_\_\_ Fax \_\_\_\_\_  
 Email \_\_\_\_\_

Legal Status of Applicant: \_\_\_\_\_

**Project Information:** *(Attach documentation as necessary)*

Name of CDD \_\_\_\_\_  
 Special services to be provided \_\_\_\_\_

Boundaries of proposed SSA \_\_\_\_\_ *(Insert legal description of subdivision)*

Parcel Identification Number(s) \_\_\_\_\_

General Location of CDD \_\_\_\_\_

**Funding Information:**

Estimated amount of funding required \_\_\_\_\_  
 Stated need and local support for proposed Special Service Area \_\_\_\_\_

**County of McHenry, Illinois**  
**Application for a Special Service Area for Long-Term Open Space and Stormwater Management**  
**Page 2 of 2**

**Attach the following additional information:**

- Plan(s) for long-term management, operation and maintenance for open space areas and stormwater drainage system(s).
- Description of funding sources for long-term plan(s).
- Prepared affidavit for future owners to sign stating that there will be no objection to the SSA. (This criteria is only required if lots have been sold and transferred during the sixty (60) day wait period.)
- Homeowners'/Property owners' Association Covenants and Restrictions (By-laws).
- Accurate map of SSA boundary

**Additional information to be provided once available:**

- Copy of recorded plan(s) for long-term management, operation and maintenance of open space areas and stormwater drainage system(s).
- Recorded certification of incorporation of the HOA/POA.

\_\_\_\_\_  
*(Signature of owner of record)*      *(Date)*

\_\_\_\_\_  
*(Signature of owner of record)*      *(Date)*

\_\_\_\_\_  
*(Signature of owner of record)*      *(Date)*

\_\_\_\_\_  
*(Signature of owner of record)*      *(Date)*

For Office Use Only			
Subdivision Tracker Number: _____			
Date application was received:		Date Proposing Ordinance prepared:	
Date of SPRC review:		Date of Publication for Notice:	
Public Hearing date:		Date Proposing Ordinance approved:	
Date sent to P&D Committee:		End of 60 day wait period:	
Date Establishing Ordinance approved:		Date establishing Ordinance recorded:	

**Affidavit of No Objection for Special Service Area for Long-Term Open Space and Stormwater Management**  
 STATE of ILLINOIS  
 COUNTY of McHENRY, ILLINOIS

**Affidavit of No Objection**

**To the Establishment of a Special Service Area for Long-Term Open Space and Stormwater Management**

I, \_\_\_\_\_ *(Insert name of owner of record)*, under oath, state as follows:

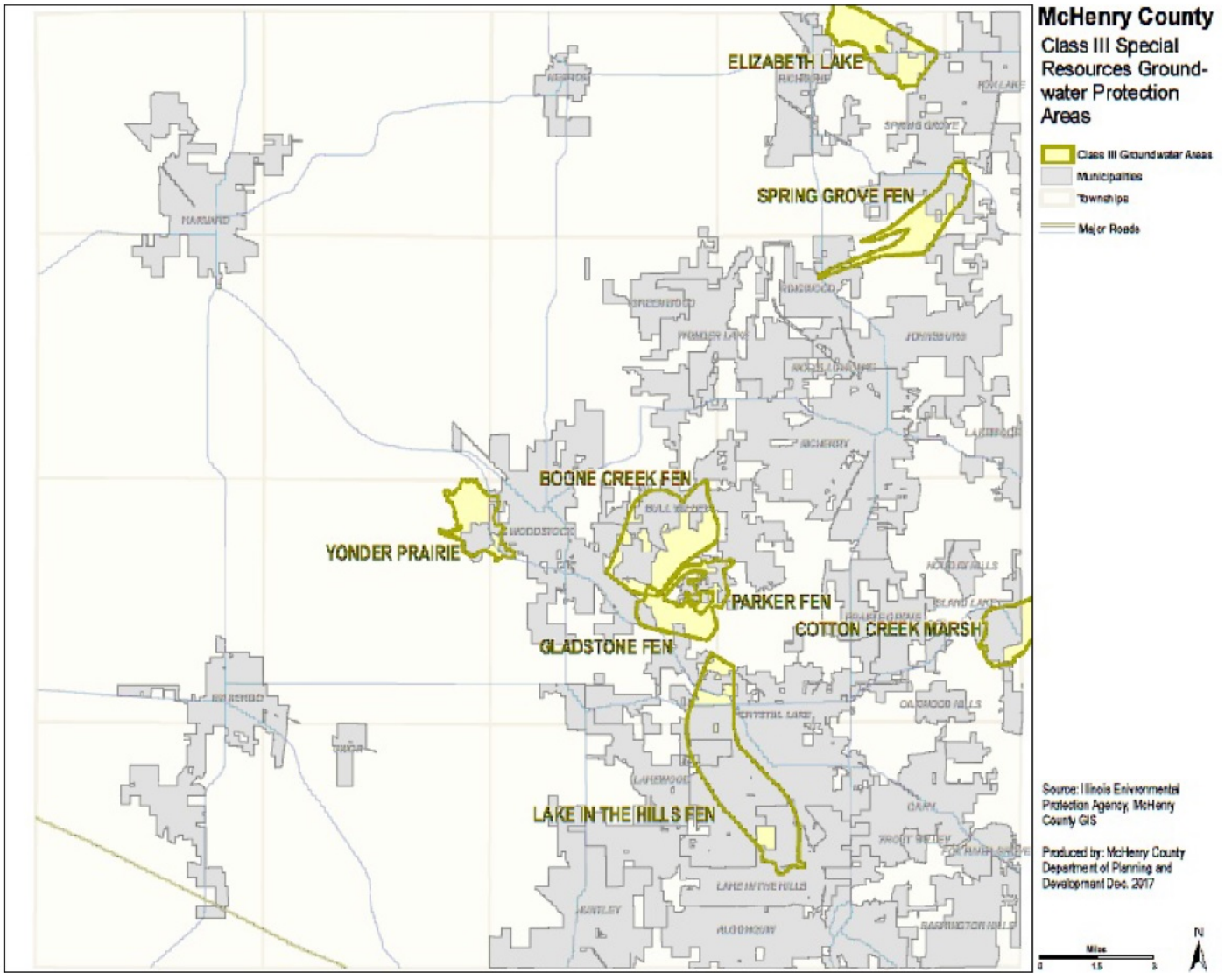
*(Note: An Affidavit of No Objection is required for each owner of record.)*

1. I am the current owner of the property located at \_\_\_\_\_ *(address of property)*, in \_\_\_\_\_ *(insert name of City)*, Illinois, \_\_\_\_\_ *(insert township name)* McHenry County, Illinois more fully described as:

*(Insert legal description and Parcel Identification Number)*

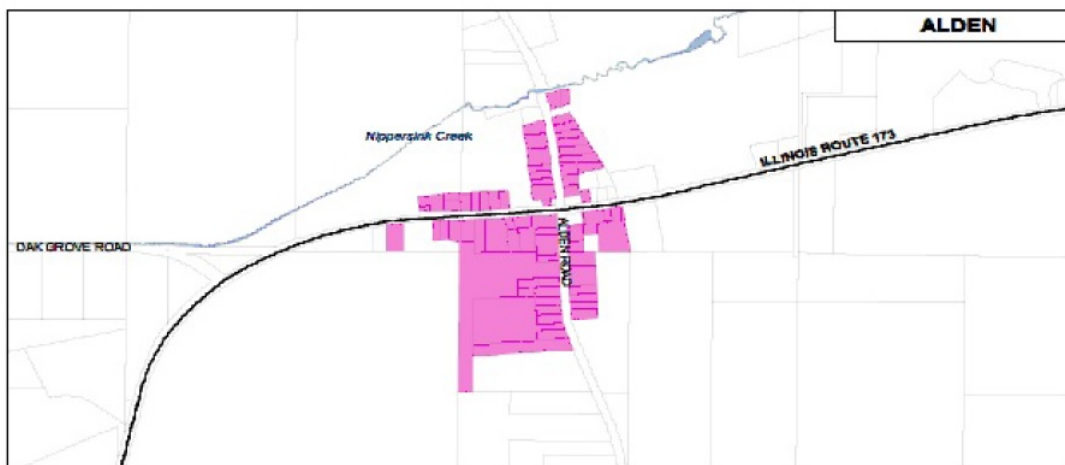
2. In accordance with the McHenry County Subdivision Ordinance and the Stormwater Management Ordinance, the property will be improved with open space areas and a stormwater drainage system; and
3. The property owner is obligated to maintain the open space areas and stormwater drainage system with the property limits; and
4. McHenry County ordinances requires the establishment of a Special Service Area pursuant to 35 ILCS 200/27-5et seq., as a back-up vehicle in the event the homeowners'/property owners' association fails to adequately carry out its duties of providing for the long-term maintenance of open space areas and stormwater drainage system; and
5. The County of McHenry, Illinois requires that this SSA be established over the entire property to provide for the long-term maintenance; and





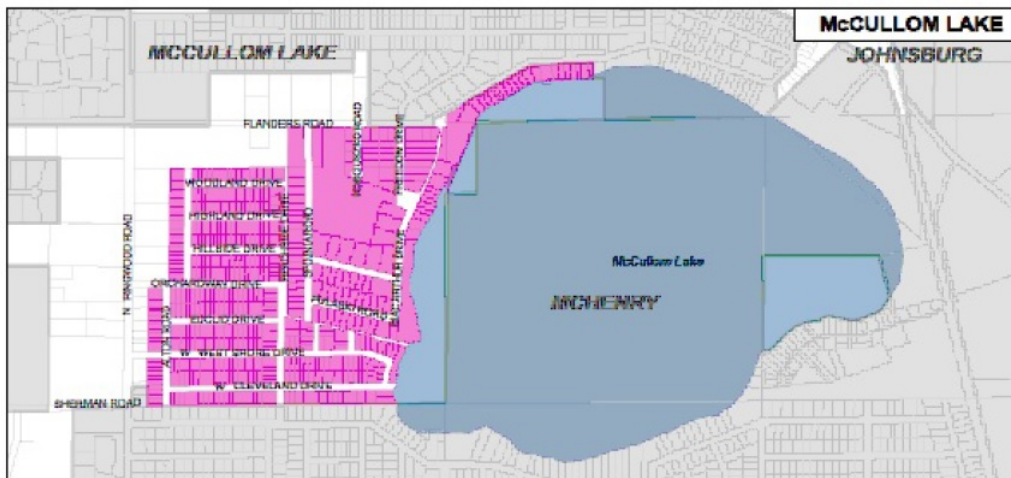
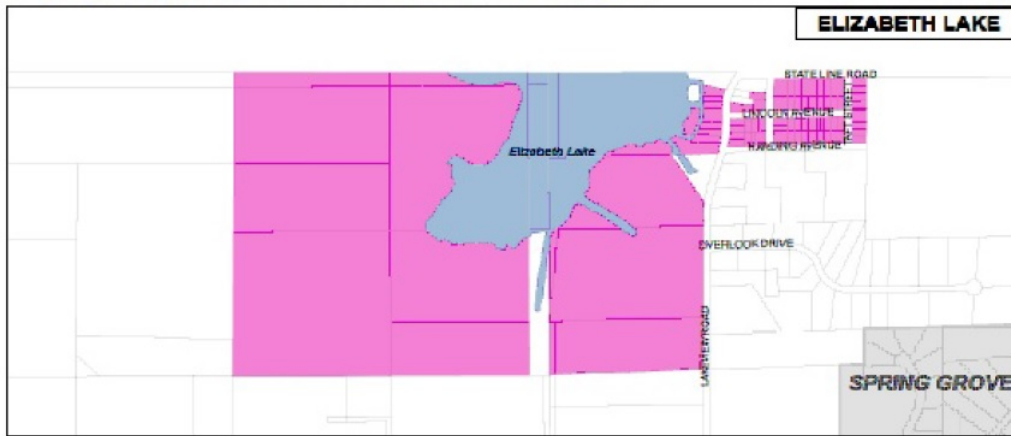
LEGACY WATERFRONT NEIGHBORHOOD (LN) OVERLAY DISTRICT

# Legacy Neighborhood Overlay District Map #1

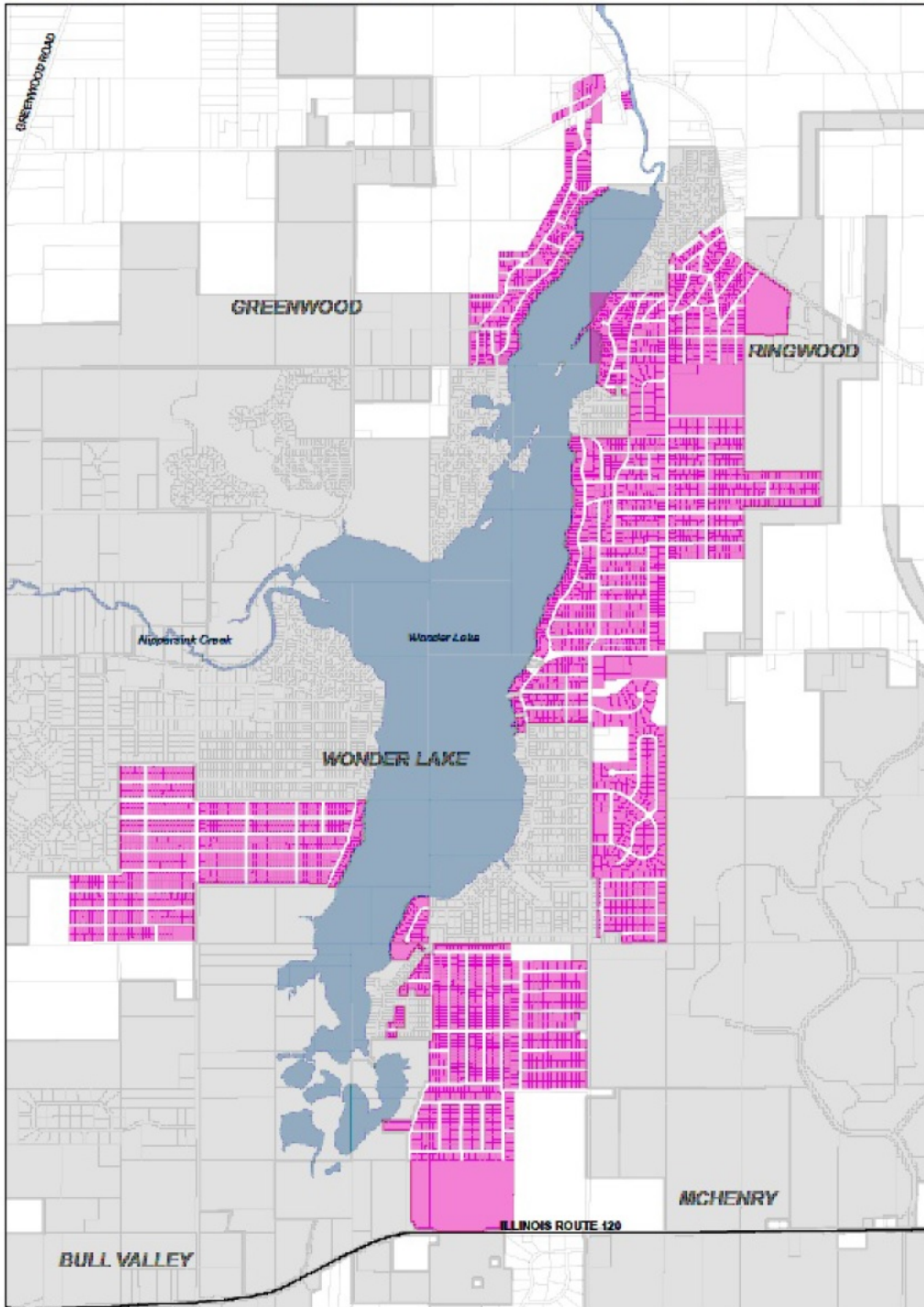
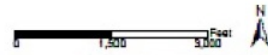




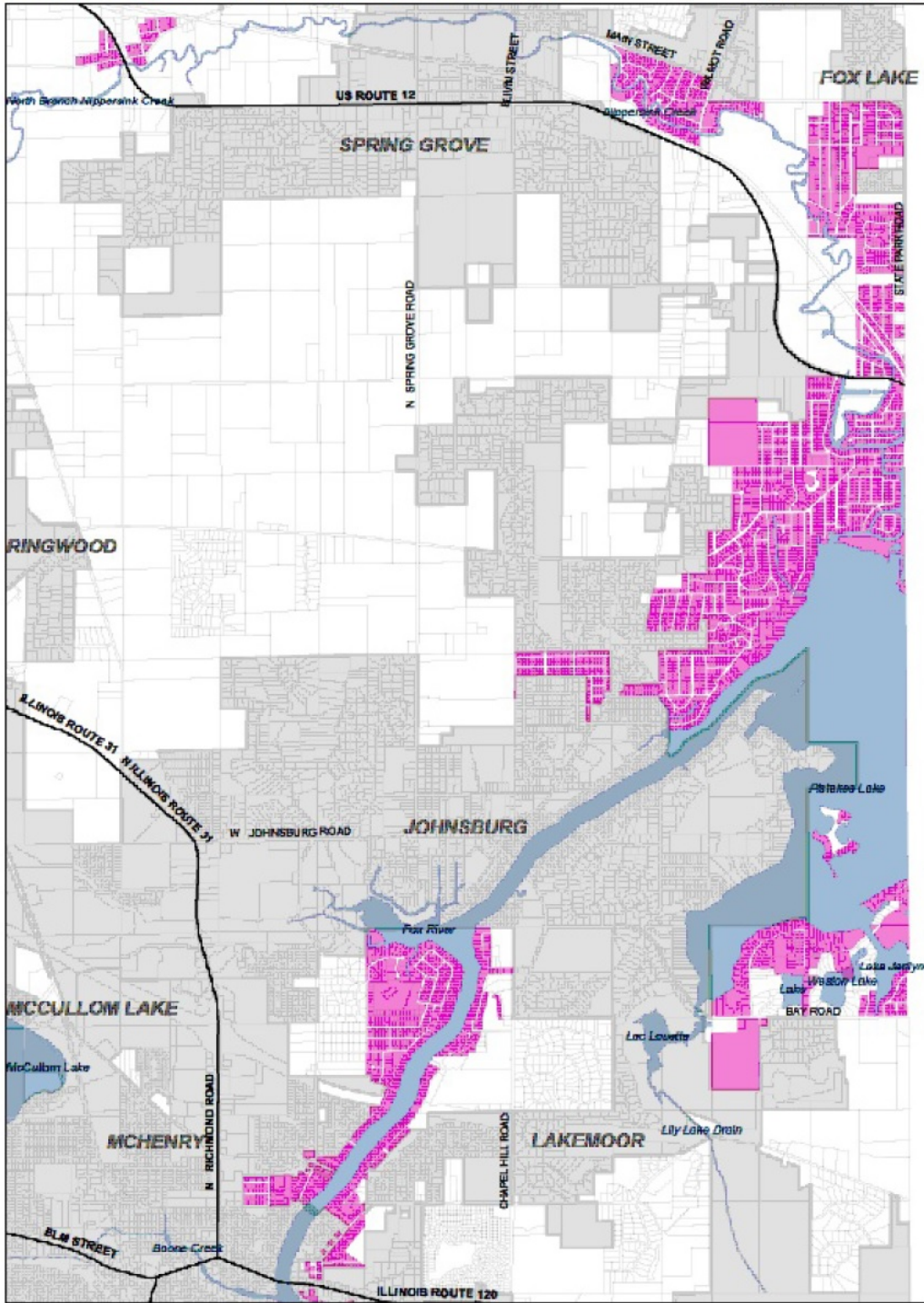
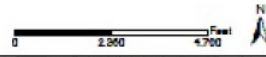
# Legacy Neighborhood Overlay District Map #2



# Legacy Neighborhood Overlay District Map #3

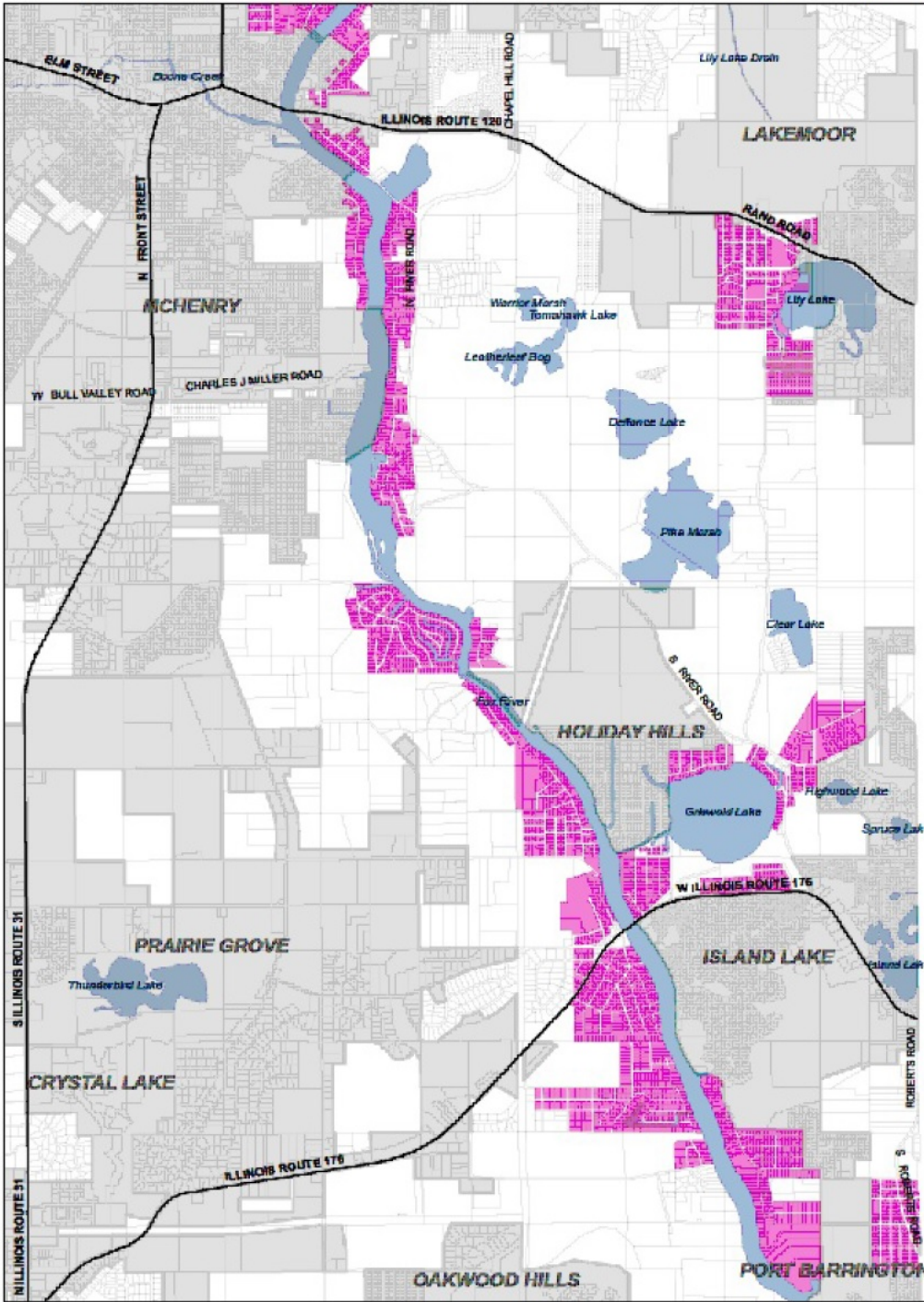
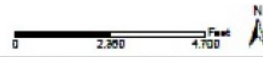


# Legacy Neighborhood Overlay District Map #4

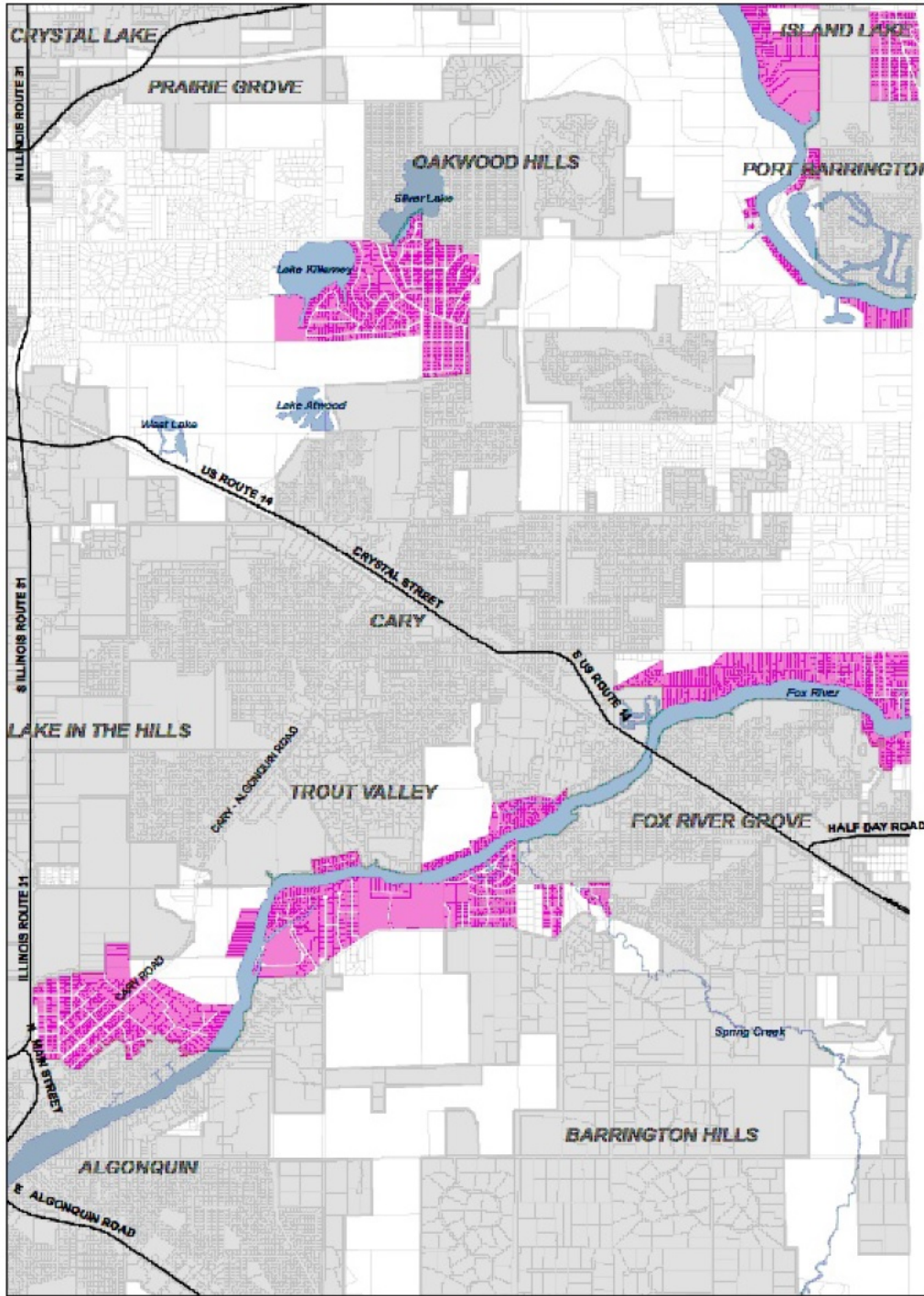




# Legacy Neighborhood Overlay District Map #5

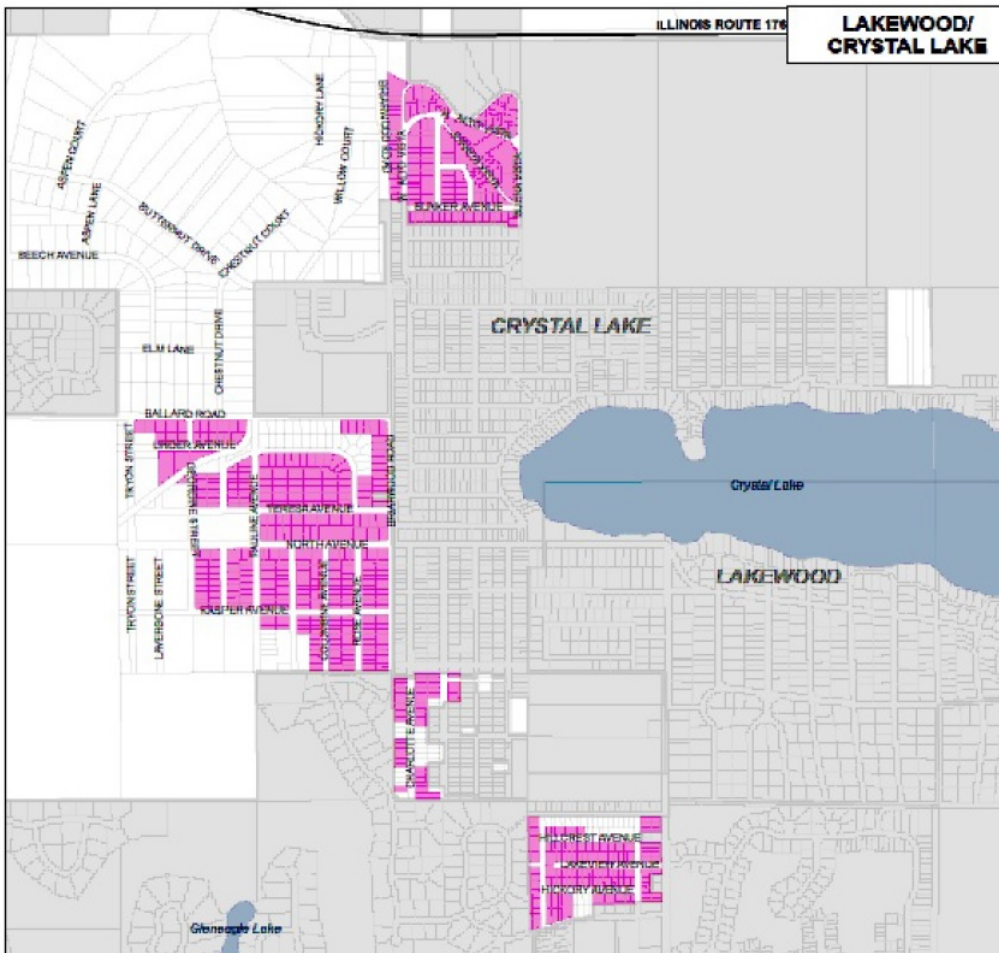
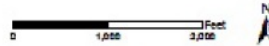


# Legacy Neighborhood Overlay District Map #6





# Legacy Neighborhood Overlay District Map #7



## APPENDIX C: BEST MANAGEMENT PRACTICES FOR WIND ENERGY SYSTEMS.

### OVERVIEW

Best Management Practices (BMP) explain various options that constitute acceptable methods to minimize impacts of wind energy systems (WES). These include, but are not limited to, maintenance codes, environmental protection practices (soil erosion prevention, groundwater protection, habitat protection, and wildlife protection), operational practices, and resource lists.

### ENVIRONMENTAL FACTORS

#### Site Development and Construction Best Management Practices

During site planning and development, careful attention to reducing risk of adverse impacts to species of concern from wind energy projects, through careful site selection and facility design, is recommended. The following BMPs can assist a developer in the planning process to reduce potential impacts to species of concern. Use of these BMPs will limit adverse impacts to most species of concern and their habitats present at many project sites. Although, compensatory mitigation may be appropriate at a project level to address significant site-specific concerns and pre-construction study results.

#### Wildlife

1. Avoid locating WESs in areas identified as having a demonstrated high risk to birds and bats that cannot be mitigated.
2. To reduce avian collisions, place low and medium voltage connecting power lines associated with the wind energy development underground to the extent possible, unless burial of the lines is prohibitively expensive (e.g., where shallow bedrock exists) or where greater adverse impacts to biological resources would result.
  - a. Overhead lines may be acceptable if sited away from high bird crossing locations, to the extent practicable, such as between roosting and feeding areas and nesting habitats. To the extent practicable, the lines should be marked in accordance with Avian Power Line Interaction Committee (APLIC) collision guidelines.

- b. Overhead lines may be used when the lines parallel tree lines, employ bird flight diverters, or are otherwise screened so that collision risk is reduced.
  - c. Above-ground low and medium voltage lines, transformers and conductors should follow the 2006 or most recent APLIC "Suggested Practices for Avian Protection on Power Lines."
3. Use construction and management practices to minimize activities that may attract prey and predators to the WES.
  4. Locate WESs to avoid separating bird and bat species of concern from their daily roosting, feeding, or nesting sites if it has been documented that the WES's presence poses a risk to species.
  5. When practical, use tubular towers or best available technology to reduce ability of birds to perch and to reduce risk of collision.
  6. Follow federal and state regulations and guidelines for handling toxic substances to minimize danger to water and wildlife resources from spills.

**Habitat and Natural Resources**

1. Use available data from state and federal agencies, and other sources (which could include maps or databases) that show the location of sensitive resources.
2. For Midsize or Large WES, a mitigation plan to minimize the likely impact to the identified habitats and natural resources shall be filed with any application.

**Retrofitting**

Retrofitting is defined as replacing portions of existing WESs or ancillary facilities so that at least part of the original turbine, tower, electrical infrastructure or foundation is being utilized. Retrofitting BMPs include:

1. Retrofitting of WESs should use installation techniques that minimize new site disturbance, soil erosion, and removal of vegetation of habitat value.
2. Retrofits should employ shielded, separated, or insulated electrical conductors that minimize electrocution risk to avian wildlife per APLIC (Avian Power Line Interaction Committee, 2006).
3. Retrofit designs should prevent or discourage nests or bird perches from being established in or on the WES.
4. When facility lighting is included, use lights with motion or heat sensors and switches to keep lights off when not required. Minimize the use of high intensity lighting, steady-burning, or bright lights such as sodium vapor, quartz, halogen, or other bright spotlights.

**Repowering Existing Multi-WES Projects**

Repowering may include removal and replacement of WES and associated infrastructure. BMPs include:

1. To the greatest extent practicable, existing roads and disturbed areas should be re-used in repower layouts.
2. Existing ancillary facilities should be re-used in repowering projects to the extent practicable.
3. Existing overhead lines may be acceptable if located away from bird crossing locations, such as between roosting and feeding areas, or between lakes, rivers and nesting areas. Overhead lines may be used when they parallel tree lines, employ bird flight diverters, or are otherwise screened so that collision risk is reduced.
4. Above-ground low and medium voltage lines, transformers and conductors should follow the most recent APLIC "Avian Protection Guidelines" or the most recent APLIC "Suggested Practices for Avian Protection on Power Lines."
5. Use of facility lighting at WES and ancillary facilities should be kept to a minimum.
  - a. Use lights with motion or heat sensors and switches to keep lights off when not required.
  - b. Lights should be hooded downward and directed to minimize horizontal and skyward illumination.
  - c. Minimize use of high intensity lighting, steady-burning, or bright lights such as sodium vapor, quartz, halogen, or other bright spotlights.

**Decommissioning**

During decommissioning, contractors and facility operators should apply BMPs for road grading and native plant re-establishment to ensure that erosion and overland flows are managed to restore pre-construction landscape conditions. The Responsible Party, in conjunction with the Property Owner and state and federal wildlife agencies, should restore the natural hydrology and plant community to the greatest extent practical. Site inventories should be conducted by qualified experts to detect invasive plants, and comprehensive approaches to controlling any detected plants should be implemented and maintained as long as necessary.

**LIST OF REFERENCES AND RESOURCES FOR FURTHER INFORMATION**

Avian Power Line Interaction Committee, *Avian Protection Plan* - <http://www.aplic.org/>

Germanischer Lloyd - *Guideline for the Certification of Wind Turbines*- <http://www.gl-group.com/en/certification/renewables/CertificationGuidelines.php>

Institute of Noise Control Engineering of the USA (INCE/USA) - <http://www.inceusa.org/>

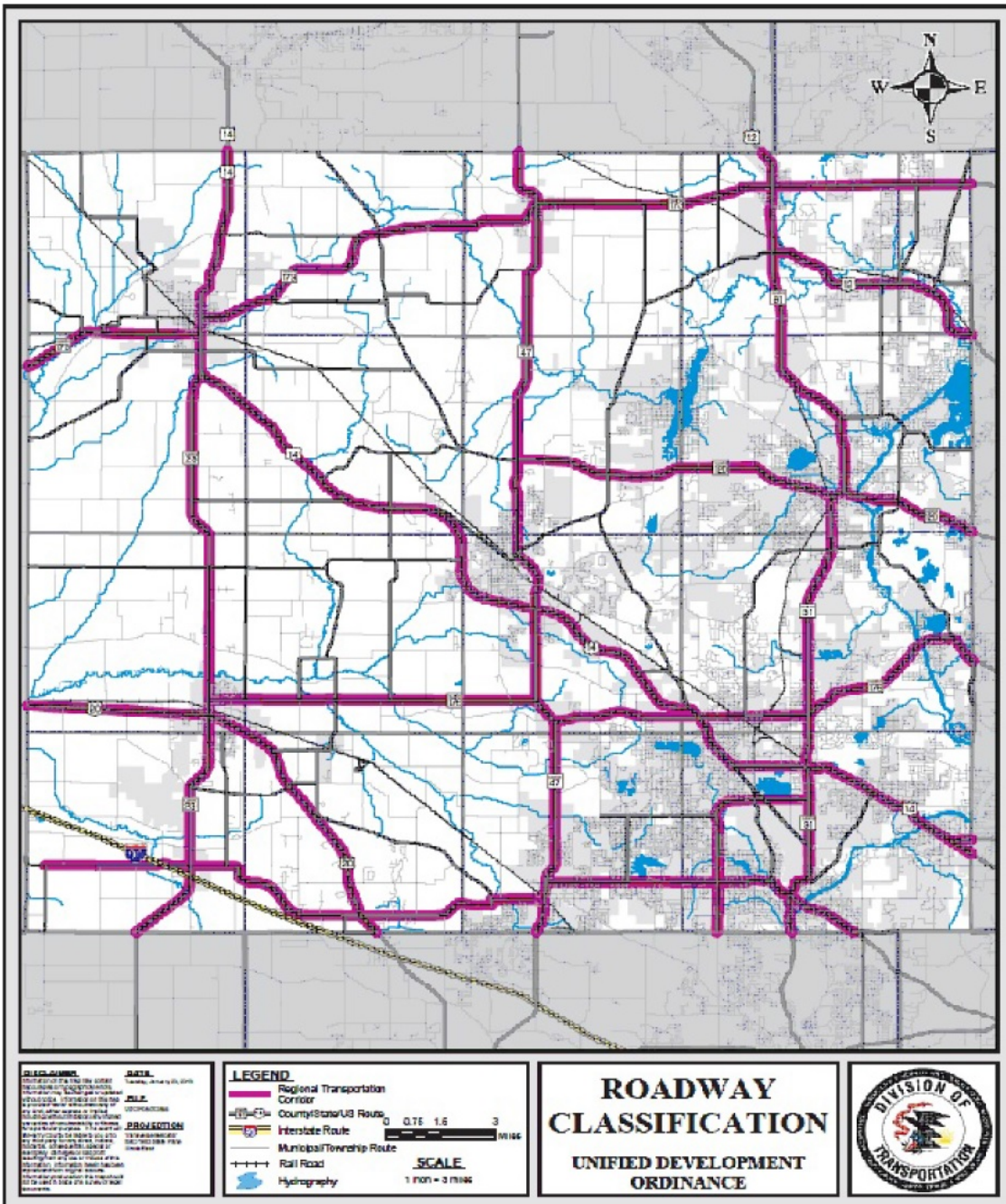
McHenry County Conservation District, Citizens Advisory Committee, *Wind Energy Task Force Report*(April 2010) - <http://www.mccdistrict.org/>

U.S. Fish and Wildlife Service, *Land-Based Wind Energy Guidelines*- <http://www.fws.gov/windenergy/>

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, App. C; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)

**APPENDIX D: ROAD CLASSIFICATION MAP.**

Refer to the following map and descriptions to determine the location of arterials and strategic regional arterials in the County.



#### ARTERIALS

- Ackman Road
- Airport Road
- Alden Road
- Algonquin Road (Huntley) from Marengo Road to Illinois Route 47
- Algonquin Road from Haegers Bend Road to US Route 14
- Barnard Mill Road from Howe Road to Illinois Route 31
- Barreville Road south of Bull Valley Road
- Bay Road
- Briarwood Road from North Avenue to Illinois Route 176
- Bull Valley Road
- Cary Road
- Chapel Hill Road
- Charles Road from Alden Road to Illinois Route 47
- Coral West Road from Illinois Route 23 to South Union Road
- Country Club Road
- County Line Road (Barrington Hills)
- Crystal Lake Avenue from US Route 14 to Silver Lake Road
- Crystal Lake Road

Cuhlman Road  
Curran Road  
Deep Cut Road from US Route 14 to Nelson Road  
Deerpass Road from Illinois Route 176 to Kishwaukee Valley Road  
Dole Avenue south of US Route 14  
Doty Road  
Dundee Road  
Dunham Road from Illinois Route 23 to US Route 14  
East Solon Road  
East Wonder Lake Road  
First Street (Cary)  
Flat Iron Road  
Fleming Road  
Fox Lake Road  
Franklinville Road  
Genoa Road  
Gracy Road  
Greenwood Road  
Haegers Bend Road  
Haligus Road  
Hampshire Road  
Harmony Road  
Hartland Road  
Hillside Road  
Hobe Road  
Howe Road  
Hughes Road  
Hunter Road  
Illinois Route 120 from Greenwood Road to US Route 14  
Illinois Route 176 from Illinois Route 47 to the Lake County line  
Illinois Route 47 from Illinois Route 173 to State Line  
Jackson Street (Woodstock)  
Kishwaukee Valley Road  
Kreutzer Road  
Lake Avenue (Crystal Lake) from Dole Avenue to North Avenue  
Lake Avenue (Woodstock)  
Lakewood Road south of Ackman Road  
Lawrence Road  
Lily Lake Road  
Lincoln Road from River Road to Cuhlman Road  
Lucas Road from Illinois Route 47 to Mt. Thabor Road  
Main Street (Burton Township)  
Main Street (Cary)  
Main Street (Crystal Lake)  
Maple Street (Marengo)  
Marengo Road (Coral/Grafton Townships)  
Marengo Road (Dunham Township)  
McConnell Road  
McCullom Lake Road  
McGuire Road  
McHenry Avenue  
Miller Road  
Mt. Thabor Road  
Nelson Road  
Nish Road from Barreville Road to Valley View Road  
North Avenue from Briarwood Road to Lake Avenue  
North Johnsburg Road  
North Union Road from West Union Road to Illinois Route 176

O'Brien Road  
Oak Grove Road from Lawrence Road to Illinois Route 173  
Oak Grove Road from Ramer Road to Illinois Route 173  
Oak Street (Crystal Lake)  
Pingree Road  
Plum Tree Road  
Prospect Street from US Route 20 to Illinois Route 176  
Pyott Road  
Queen Anne Road from Bull Valley Road to Charles Road  
Ramer Road  
Rawson Bridge Road  
Ridge Road  
Ridgefield Road  
Ringwood Road from Illinois Route 120 to Illinois Route 31  
Ringwood Road from Illinois Route 31 to Fox Lake Road  
River Road  
Riverside Drive (McHenry)  
Roberts Road  
Silver Lake Road  
South Rawson Bridge Road  
South Street (Woodstock)  
South Union Road  
Spring Grove Road  
State Park Road  
Terra Cotta Road from Illinois Route 176 to Hillside Road  
Thompson Road from Illinois Route 120 to West Wonder Lake Road  
Three Oaks Road from Pingree Road to South Rawson Bridge Road  
Throop Street (Woodstock)  
Tryon Grove Road  
US Route 20 from Illinois Route 23 to the Kane County line  
Valley View Road  
Vander Karr Road  
Virginia Road from US Route 14 to Illinois Route 31  
Walkup Avenue  
Walkup Road  
West Johnsbury Road  
West Union Road  
West Wonder Lake Road from Thompson Road to Howe Road  
White Oaks Road from Hunter Road to Illinois Route 173  
Wilmot Road  
Winn Road  
Wright Road

#### **SRA ROUTES**

Algonquin Road  
Charles Road from Illinois Route 47 to Illinois Route 120  
Illinois Route 120 from Charles Road to the Lake County line  
Illinois Route 173  
Illinois Route 176 from Illinois Route 23 to Illinois Route 47  
Illinois Route 22  
Illinois Route 23  
Illinois Route 31 from the state line to Randall Road/Illinois Route 31 connector  
Illinois Route 47 from Illinois Route 173 to Kane County line  
Illinois Route 62  
James R. Rakow Road  
Randall Road  
Randall Road connector (from Randall Road to Illinois Route 31)  
US Route 12



US Route 14

US Route 20 from the Boone County line to Illinois Route 23

(Ord. O-201410-10-035, passed 10-14-2014; Ord. O-201601-ZBA-006, passed 1-19-2016; Ord. O-201603-ZBA-010, passed 3-17-2016, App. D; Ord. O-201803-ZBA-10-08, passed 3-19-2018; Ord. O-201808-10-033, passed 8-21-2018)