

Solar farm. Solar farms, also known as solar power plants and solar energy generations facilities, shall be permitted in the Agricultural District “A” as a special use, in accordance with the following minimal regulations and design standards. Notwithstanding Perry County Zoning Code, paragraph 40-4-3, the special use permit for a solar project will be valid throughout the useful life of the project.

1. Design standards. The design standards and bulk regulations listed in the “A” Agricultural District for setbacks, lot size, lot coverage, lot area, height, and signage shall be suspended for all solar farms and the following regulations shall apply instead. All other design standards and bulk regulations of the district shall apply.

a. Foundations. The project’s engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

b. Other standards and codes. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, Illinois Public Act 099-0906 and the National Electric Code as amended. The installation of new solar energy generation facilities shall be installed by a qualified person as defined by Illinois Public Act 099-0906 (known as the "Future Energy Jobs Act").

c. Power and communications lines. Power and communications lines running between arrays of solar panels and to electric substations or interconnections with buildings shall be buried underground, except in areas where technical or physical constraints make it more practicable to install above ground. Exemptions or variances may be granted in instances where shallow bedrock, watercourses, or other elements of natural landscape interfere with the ability to bury lines. JULIE shall be contacted before digging/excavating begins.

d. Minimum lot size. No solar farm shall be erected on any lot less than five (5) acres in size.

e. Height. Systems, equipment and structures shall not exceed 30 feet in height when ground mounted. Excluded from this height requirement, however, are electric transmission lines and utility poles.

f. Setbacks. Ground mounted solar energy systems as part of a solar farm shall have a setback for all equipment excluding fences a minimum of 100 feet on the front (entrance to solar energy farm) and 50 feet from all other property lines, with the exception of residential property lines, in which the solar energy system shall be setback 100 feet for residentially zoned lots and existing residential properties, with the setback distance to be measured from the edge of the solar equipment of the solar farm to the property line of residentially zoned lots or existing residential properties. The zoning board of appeals may grant a variance to such setback requirement if the proposed or existing buffer is sufficient to screen the project from view from adjoining property or public rights-of-way, if the owners of the adjoining properties agree to waiver these setback requirements. The zoning board of appeals granting of such a variance will be part of their recommendations to the county board. For clarification, these setbacks do not apply to adjacent parcels included within the project site.

g. Screening and fencing. The solar energy system shall be fully enclosed and secured by a fence with a minimum height of six feet. Keys shall be provided at locked entrances for access by appropriate emergency personnel. The applicant shall propose a landscaping plan, where necessary, to minimize the visibility of the project from adjacent residential structures. The landscape plan shall take into account the type(s) of vegetation to be planted, along with its approximate location. Earth berms and other topographical features and existing wooded areas may be acceptable forms of screening.

h. Lighting. If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.

i. Noise. Noise levels measured at the property line shall not exceed 50 decibels when located adjacent to an existing residence or residential district.

j. Performance standards. All solar power plants must conform to the performance standards as set forth by any local, state, federal regulatory standards, Illinois Public Act 099-0906 or the National Electric Code as amended.

k. Signage. An appropriate warning sign shall be provided at the entrance to the facility and along the perimeter to the solar farm project. The sign at the entrance to the facility shall include the facilities 911 address and a 24-hour emergency contact number.

l. Outdoor Storage. Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the solar farm shall be allowed with the exception of outdoor storage that is expressly allowed in the zoning district as specified herein. The zoning administrator or his or her designee shall have the discretion in determining whether the outdoor storage is in compliance with this provision. In any event all outdoor storage areas shall be paved with a bituminous surface and either fenced or screened to prevent viewing from adjoining properties and uses. For clarification purposes, during construction periods, it is understood that there may be materials, vehicles and equipment on the site(s) that do not support the operation or maintenance of the solar farm; or, do not comply with the zoning district. It will be further understood that any materials, vehicles or equipment on the site during construction that does not directly support the operation and maintenance of the solar farm; or, does not comply with the zoning district will be removed at the completion of construction so as to be compliance with this section.

m. Aviation Protection. For solar energy systems located within five hundred (500) feet of an airport or within approach zones of an airport, the applicant shall complete and provide the results of the Solar Glaze Hazard Analysis Tool (SGHAT) for the airport traffic control tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federal Obligated Airports, or most recent version adopted by the FAA.

n. Fire Protection. A fire protection plan for the construction and the operation of the facility and emergency access to the site.

o. Endangered Species and Wetlands. Solar farm developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation shall be borne by the developer.

2. Application requirements (zoning). Due to the unique nature and special requirements of solar power plants and their potential impacts to adjoining properties and government services, solar power plants shall be required to submit and obtain approval on the following items in addition to any requirements specified in the special use section of the County Code or any special conditions required by the zoning board of appeals or the Perry County Board. The applicant shall provide 20 copies of all required submittals to the zoning department. However, the applicant shall only be required to submit two copies of all documents proving ownership or interest in the property.

a. A site plan with existing conditions showing the following:

- i. Existing property lines and property lines extending 100 feet from the exterior boundaries of the solar project, including the names of adjacent property owners and current use of those properties.
- ii. Existing adjacent public and private roads, showing widths of the roads and any associated easements.
- iii. Location and size of any abandoned wells, sewage treatment plants within the solar farm or on adjacent parcels.
- iv. Existing buildings and any impervious surfaces within the solar farm.
- v. A contour map showing topography at two-foot intervals. A contour map of surrounding properties may also be required.
- vi. Existing vegetation (list type and percent of coverage: i.e. cropland/plowed fields, grassland, wooded areas etc.)
- vii. Waterways, watercourses, lakes, public water and wetlands.
- viii. Any delineated wetland boundaries.
- ix. A copy of the current FEMA FIRM map that shows the subject property. And, the 100-year flood elevation and any regulated flood protection elevation, if available.
- x. Floodway, flood fringe and/or general floodplain district boundary, if applicable and not provided on the copy of the current FEMA FIRM map.
- xi. Mapped soils according to the Perry County Soil Survey.
- xii. Surface water drainage patterns.

xiii. The location of any subsurface drainage tiles.

b. Plan of proposed conditions:

i. Location and spacing of solar panels.

ii. Location of access roads and access points.

iii. Planned location of underground or overhead electric lines connecting the solar farm to a building, substation or other electric load.

iv. New electrical equipment other than at the existing building or substation that is to be the connection point for the solar farm.

v. Sketch elevation of the premises accurately depicting proposed solar energy conversion system and its relationship to structure on adjacent land.

vi. Weed/grass control. Applicant must present an acceptable weed control plan for property inside and outside fenced area for entire property. The operating company during the operation of the solar farm must maintain the fence and adhere to the weed/grass control plan. If the operating company does not there can be a fine of \$750.00 per violation per week if the fence is not secure or the weed/grass control plan is not followed, as per Chapter 25, Article II of the Perry County Revised Code of Ordinances.

c. All solar power plant applications shall be accompanied by a preliminary map and plan showing the roads and rights-of-ways that will be utilized for both the construction and operation of the solar power plant. Prior to the issuance of a building permit, the applicant shall submit an executed agreement between the solar power plant owner/operator and all road district authorities with infrastructure affected by the solar power plant to the county. This agreement shall include at a minimum:

i. A final map identifying the routes that will be used.

ii. A plan for maintaining and/or repairing the affected roads.

iii. Other inclusions as specified by the zoning board of appeals, the county board or affected road authority.

iv. Manufacturer's specifications and recommended installation methods for all major equipment, including typical solar panels, mounting systems and foundations for poles or racks.

d. A general cost per megawatt.

e. A description of the method of connecting the array to a building or substation.

f. At the time of applying for the special use application a written demonstration shall be provided that the applicant is in the queue to acquire an interconnect agreement. Then pre-operation of the project, a copy of an interconnect agreement with the appropriate electric utility, or a written explanation outlining why an interconnection agreement is not necessary should be provided to the county.

g. A decommission plan shall be required to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for 12 consecutive months, the operating company and or land owner have six (6) months to complete the decommission plan or the county will take the necessary decommission steps. The plan shall include provisions for removal of all structures (including equipment, fencing and roads) and foundations, restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structure and/or foundations shall meet the provisions of the Perry County Ordinances and/or any regulations of the Illinois Environmental Protection Agency or the United States Environmental Protection Agency. The decommissioning security amount will be developed by a third party Illinois-licensed professional engineer which has been mutually agreed upon by the applicant and the county board and shall be required by the county in order to assure the proper decommissioning of the site. The third party Illinois-licensed professional engineer may account for the scrap and salvage value of the project in developing the proposed decommissioning security amount. In no instance shall the financial security be less than \$1,000.00 per acre. This security financing should be in the form of an irrevocable letter of credit or bond. The decommissioning plan and financial security must be presented to and accepted by the Perry County Board prior to the start of construction for the facility. The applicant/owner will re-evaluate the decommissioning cost and financial assurance at the end of years ten, twenty, and thirty, as applicable. The reevaluation of the decommissioning cost and financial assurance will be mutually agreed upon by the applicant and the county board. All costs associated with the third party Illinois-licensed professional engineer will be paid by the owner operator of the solar farm.

The county shall have access to the financial assurance for the expressed purpose of completing decommissioning if decommissioning is not completed by the applicant within six (6) months of the end of project life or facility abandonment. The county is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.

The county is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the county's right to seek reimbursement from applicant or applicant successor for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

Financial provisions shall not be so onerous as to make solar power projects unfeasible.

An update to this decommissioning plan should be submitted to the county every three (3) years. In addition any decommissioning plans signed by the party responsible for decommissioning and the landowner (if different) shall be submitted with the application.

In the event that the State of Illinois enacts a law with regard to solar farms, such as AIMA's, the strictest requirements shall prevail.

The county reserves the right to require reasonable additional information or components to the plan as the county deems necessary to ensure that an adequate proposal is in place to decommission the facility in its entirety and that adequate funds are available.

h. Liability insurance. The owner operator of the solar farm shall maintain a current general liability policy covering bodily injury and property damage and name Perry County as an additional insured with limits of at least two million dollars (\$2,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the aggregate with a deductible of no more than five thousand dollars (\$5,000.00). The applicant/owner must provide proof of insurance to the Perry County Zoning office prior to construction and then on an annual basis. Applicant must also provide proof of insurance upon any material changes to the terms and conditions of the policy.

3. Fees and costs. Applicable fees. The fees listed in Appendix "A" Schedule of Filing Fees of the Perry County Zoning Code are not applicable to solar farm special use permit applications and the following fees shall apply. No solar farm special use permit application shall be accepted until the filing fee of \$5,000.00 is paid and accompanied by a notarized statement of the appropriate corporate officials or official legal representative of the applicant that the applicant will pay to the county additional fees to reimburse the county for moneys expended in excess of \$5,000.00 in preparing for, processing, reviewing and evaluating the application to its final resolution. The applicant shall also agree in said notarized statement to stop all proceedings if an invoice for reimbursement to the county is not paid to the county treasurer within ten days after the invoice has been presented to the appropriate corporate officer or official legal representative of the applicant.

4. Off-street parking and loading. In accordance with regulations set forth in the applicable section of this chapter.

5. Signs. In accordance with the regulations set forth in the applicable section of this chapter.

6. Administration and Enforcement. The Zoning Administrator shall enforce the provisions of this ordinance through an inspection of the solar farm every year. The Zoning Administrator is hereby granted the power and authority to enter upon the premises of the solar farm at any time by coordinating a reasonable time with the operator/owner of the facility. Any person, firm or cooperation who violates, disobeys, omits, neglects, refuses to comply with, or resists enforcement of any of the provisions of this section may face fines of not more than \$750.00for each offense.

7. Annual Update Requirements. All contact information including name, phone number, and address of the current property owner, lessor, lessee, the interconnecting utility company, and buyer of the power (if applicable and if this information can be disclosed publicly), shall be submitted annually within 30 days of the anniversary date of the Special Use Permit until decommissioning has been completed at which point the Special Use Permit will null and void.

CHAPTER 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS

40-1-1 PURPOSE. In accordance with State law (55 ILCS 5/5-12001), this Code regulates lots, structures, uses, and similar matters in order to preserve, protect, and promote the public health, safety, and general welfare. More specifically, this Code is intended to assist in achieving the following objectives:

- (A) To encourage the development of buildings and uses on appropriate sites in order to maximize county-wide social and economic benefits while accommodating the particular needs of all residents, both rural and urban;
- (B) To discourage development on inappropriate sites and to protect prime farmland, farmland of statewide importance, wetlands, flood plains and groundwater;
- (C) To protect and enhance the character and stability of sound existing residential, commercial, and industrial areas, and to gradually eliminate nonconforming uses and structures;
- (D) To conserve and increase the value of taxable property throughout Perry County;
- (E) To ensure the provision of adequate light, air, and privacy for the occupants of all buildings;
- (F) To protect property from damage caused by fire, flooding, and adverse soil and topographical conditions;
- (G) To provide adequate and well-designed off-street parking areas for all buildings and uses, and to reduce vehicular congestion on the public streets and highways; and
- (H) To ensure that a land evaluation and site assessment system will be a factor in each re-zoning decision; and
- (I) To provide for the efficient administration and fair enforcement of all the substantive regulations in this Code.

40-1-2 JURISDICTION. This Code shall be applicable throughout Perry County, except within the corporate limits of municipalities which have adopted local zoning ordinances.

40-1-3 INTERPRETATION. Every provision of this Code shall be construed liberally in favor of the County, and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Code differ from the requirements of any other lawfully adopted ordinance, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-4 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no officer, board member, agent or employee of the County shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties under this Code. (See "Local Governmental and Governmental Employees Tort Immunity Act", 745 ILCS 10/1-101.)

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

40-1-5 SEPARABILITY. If any provision of this Code is declared unconstitutional or invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Code.

ARTICLE II - DEFINITIONS

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

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

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

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

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

(E) The term "shall" is mandatory, the term "may" is discretionary.

(F) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(G) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

40-2-2 SELECTED DEFINITIONS.

Abutting: Having a common lot line or district line. Synonym for "adjacent" and "contiguous".

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

Accessory Structure/Use: Any structure or use which:

(A) Is subordinate to and serves a principal structure or use;

(B) Is subordinate in area, extent or purpose to the principal structure or use;

(C) Contributes to the comfort, convenience or necessity of occupants of the principal structure or use served;

(D) Does not change the basic character of the premises as determined by its principal structure or use.

Administrator: The official appointed by the County Board of Commissioners to administer this Code, or his representative. (Synonymous with "Zoning Administrator.")

Agriculture: Any one or more in combination of the following pursuits: the growing of farm, truck, garden or row crops, dairying, pasture, horticulture, floriculture, animal/

poultry husbandry, vineyards, wholesale plant nurseries, fish farming, sod farming and tree farming. The term "agriculture" encompasses buildings occupied as residences by persons engaged in agricultural activities. In addition, it includes non-residential accessory uses and structures customarily incidental to agricultural activities. Buildings occupied as residences by persons not engaged in agriculture shall not be considered as being used for agricultural purposes, even though they are located on agricultural land; and said buildings are subject to the provisions of this Code.

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

Alley: A public or private way (see definition of "street") which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

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

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

Anchor: Any approved device used to keep a mobile home firmly attached to the stand on which it is placed.

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

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

Board of Appeals: The Zoning Board of Appeals of Perry County, Illinois.

Boarding House: A residential building or portion thereof--other than a motel or hotel or bed & breakfast--containing lodging rooms for accommodation of **three (3) to ten (10) persons** who are not members of the keeper's family, and where lodging and/or meals are provided by pre-arrangement and for definite periods, but not on an overnight or per-meal basis, to the transient public.

Buffer Strip: An area of land--undeveloped except for landscaping, fences, etc.--used to protect a use situated on **one (1) lot** from the deleterious effects of the use on the adjacent lot. Buffer strips are not to be confused with agriculture uses.

Building: Any covered structure permanently affixed to the land and designed or used to shelter people or chattel.

Building Height: The vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of a flat roof or to the deck line of mansard roof, or to the mean height level between eaves and ridge of gable, hip or gambrel roofs. Necessary appurtenances listed in **Section 40-3-9(A)** shall be excluded in building height calculations.

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

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

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

Clinic: An establishment wherein licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

Club/Lodge: A nonprofit association or persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commercial Use/Establishment: Any use or establishment wherein goods and/or services, (see **Section 40-4-4**) are provided for remuneration, whether to the consuming public (retail) or to other businesses (wholesale).

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

Convenience Store: Any small retail commercial or service establishment offering food and services.

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

County: Perry County, Illinois.

County Board: The Perry County Board of Commissioners.

Day Care Center: Any child care facility which regularly provides day care for less than **twenty-four (24) hours** per day for more than **eight (8) children** in a family home, or more than **three (3) children** in a facility other than a family home.

Dependent Mobile Home: A mobile home which does not have toilet and bath or shower facilities. (**210 ILCS 115/2.3**)

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

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (e.g. grading) in preparation therefore.

Dimensions: Refers to the depth and width of a lot or a structure.

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

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking area.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels, bed & breakfast or other accommodations for the transient public.

Dwelling, Multiple-Family: A building or portion thereof containing **three (3)** or more dwelling units.

Dwelling, Single-Family: A dwelling on a permanent foundation containing one dwelling unit and intended for the occupancy of one family. A mobile home (see definition) with the wheels and tongue removed and placed on a permanent foundation shall be deemed a detached single-family dwelling.

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

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

Easement: A legally-described right to use another person's real property for certain limited purposes.

Enclosed: As applied to a building, "enclosed" means covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls, with openings only for windows and doors.

Enlarge: To increase the size of any existing use or structure (i.e., principal or accessory). Synonym for "extend" and "expand".

Erect: To build, construct.

Existing: Actually built/constructed or in use operation on the effective date of this Code.

Family: One (1) person, or two (2) or more persons related by blood, marriage or legal adoption, or not more than three (3) unrelated persons, maintaining a common household in a dwelling unit.

Farmstead: A farm and its buildings.

Farmland of Statewide Importance: Land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage and oilseed crops. Criteria for defining and delineating this land is to be determined by the appropriate State agency or agencies. Generally, farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods.

Flood Plains: Flood plains as determined by the Federal Emergency Management Agency (FEMA) and as applicable to the National Flood Insurance Program (NFIP) mean the lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas that at a minimum, are subject to a **one percent (1%)** or greater chance of flooding in any given year (i.e., a 100-year flood plain).

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

Foundation, Permanent: In order to be considered permanent, a foundation shall extend into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block or mortared brick extending into the ground below the frost line, shall satisfy the requirement of a permanent foundation.

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

Hereafter: Any time after the effective date of this Code.

Home Occupation: Any business, profession or occupation conducted for gain entirely on residential premises in conformity with the provisions of this Code.

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

Immobilized Mobile Home: A mobile home served by individual utilities, resting on a permanent perimeter foundation which extends below the established frost depth with the wheels, tongue and hitch removed and the home secured in compliance with the Mobile Home Tiedown Act. **(210 ILCS 115/2.10)**

Independent Mobile Home: A mobile home which has self-contained toilet and bath or shower facilities. **(210 ILCS 115/2.4)**

Intensify: To increase the level or degree of.

Intersection: The point at which **two (2)** or more public rights-of-way (generally streets) meet.

Junk/Salvage: Scrap materials (i.e. metal, paper, glass, plastics and similar commodities) and discarded items (vehicles, equipment, appliances, batteries, tires and similar products) that are potentially recyclable.

Lot: A tract of land intended as a unit for the purpose (whether immediate or future) of transfer of ownership or development. A "lot" may or may not coincide with a "lot of record". "Lot" is synonymous with "tract", "plot", and "site".

Lot of Record: An area of land designated as a lot on a plat of subdivision or described by metes and bounds in a deed, and recorded with the County Recorder.

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

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

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

Lot Coverage: The portion of a lot that is occupied by structures, including accessory structures.

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

Lot Line, Front: Any lot boundary abutting a street.

Lot Line, Rear: An interior lot line which is most distant from and most nearly parallel to the front lot line.

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

Lot Width: The mean horizontal width of a lot measured at right angles to the side lot lines.

Maintenance: The routine upkeep of a structure, premises or equipment, including the replacement or modification of structural components to the extent necessary to keep said structure, etc. in sound condition.

Materially: As applied to the impact of one thing on another, "materially" means significantly or substantially.

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

Mobile (Manufactured) Home: A structure designed for human habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be used for human occupancy as a dwelling place for **one (1)** or more persons. The term "mobile home" shall include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "National Manufactured Housing Construction and Safety Standards Act of 1974". All mobile homes located in Perry County after the adoption of this Code shall be constructed to the U.S. Department of Housing and Urban Development (HUD) requirements for mobile homes and shall have the proper seal to denote compliance. **(210 ILCS 115/2.1)** All mobile homes require a Special Use Permit as defined in this Chapter. To be identified as a "mobile home" the structure shall not be in excess of **ten (10) years** of age at the time of an application for a Special Use Permit to Perry County and shall consist of not less than **nine hundred (900) square feet** as identified on the Certificate of Title of a Vehicle. A factory built residence constructed to the standards of the current version of the International Residential Code and placed on a permanent foundation is not a mobile home. **(Ord. No. 2011-07; 05-05-11)**

Mobile (Manufactured) Home Park: A tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **five (5)** or more independent mobile homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licenser as a mobile home park if they are maintained and operated jointly. Neither an immobilized mobile home nor a motorized recreational vehicle shall be construed as being a part of a mobile home park. **(210 ILCS 115/2.5)**

Mobile Home Stand: The part of a mobile home space beneath the mobile home that includes the concrete slab or runners on which the home is placed and to which it is anchored.

Modular Home: A factory-fabricated single-family home built in one or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed on a full perimeter permanent foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home must have a minimum 3/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **twelve hundred (12,000) square feet**. Modular homes shall meet the current Building Officials and Code Administrators (BOCA) standards. All structures shall be on a permanent foundation in order that they may be assessed as real estate.

Nonconforming: As applied to a lot, structure, or use, "nonconforming" means: (1) lawfully existing on the effective date of this Code or pertinent amendment thereto, but (2) not in compliance with the applicable provisions set forth herein.

Nuisance: Any thing, condition or conduct that endangers health, unreasonably offends the senses, obstructs the free use and comfortable enjoyment of property and/or essentially interferes with the comfortable enjoyment of life.

Nursery School: See "Day Care Center".

Office: Any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial enterprise or professional person is transacted.

Overlay District: A zoning district superimposed over one or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems.

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

Parking Space, Off-Street: An area within an off-street parking area/lot or garage, used for the storage of one passenger motor vehicle according to the Illinois Accessibility Code.

Permanent Habitation: A period of **two (2)** or more months. **(210 ILCS 115/2.2)**

Permitted Use: Any use which is or may be lawfully established in a particular district.

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

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

Prime Farmland: Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops. As determined by the United States Department of Agriculture, prime farmland has the soil quality, growing season and moisture supply needed to economically produce sustained high yields of crops when treated and managed according to acceptable farming methods.

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

Property Line: See "Lot Line".

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

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

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

Restrictive: To keep within prescribed limits.

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

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated, granted or sold to a unit of government for streets, alleys, or other public purposes.

Salvage Yard/Recycling Center: Any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled, including auto wrecking yards, house wrecking yards, used-lumber yards, and yards for storage of salvaged house wrecking and structural steel materials and equipment; including establishments where such uses are conducted entirely within a completely enclosed building, but not including establishments for the sale, purchase, or storage of used cars in operable condition, or storage of materials incidental to manufacturing operations.

Sanitary Landfill: A tract of open land used for the permanent disposal of refuse in accordance with the requirements of the Illinois Environmental Protection Agency (IEPA). At a "sanitary landfill" the refuse is periodically covered with soil or foam, as approved by the IEPA.

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

Seasonal Dwelling: A structure used on a part-time basis for recreational purposes—not a primary residence (e.g. weekend cabin).

Service Use/Establishment: Any use or establishment where services are provided for remuneration either to individuals or to other firms.

Setback: The horizontal distance from the lot line in question to the side of the structure facing that lot line or to the edge of the area of operation of the principal use (in the case of a use which does not involve a structure).

Setback Line: See "Building Line".

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

Special Use Permit: A permit issued in accordance with the provisions of this Code to regulate development of a special use.

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

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

Street, Private: Any street providing access to abutting property that is not maintained by and dedicated to the County or other unit of government.

Stringent: Binding, exacting.

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

Structure, Temporary: Any structure that is not attached to a permanent foundation.

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

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Travel Trailer: A structure designed for temporary occupancy which is designed to be moved by a motor vehicle (i.e., recreational vehicles).

Travel Trailer Park: A lot developed with facilities for accommodating temporarily occupied travel trailers, including campgrounds, recreational camps and private/leased lots used for weekend homes, mobile homes, campers and RV (recreational vehicles).

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

Variance: A relaxation of the strict application of the lot size, setbacks, or other area-bulk requirements applicable to a particular lot or structure.

Wetlands: Are those areas as determined by the Natural Resource Conservation Service and U.S. Army Corps of Engineers. Wetlands generally include swamps, marshes, bogs and similar areas, such as sloughs, potholes, wet meadows, river overflows, mudflats and natural ponds.

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

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

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

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

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

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

Zoning Map: The adopted official map and any amendments thereto designating zoning districts, and incorporated into this Code by reference.

ARTICLE III - GENERAL SUBSTANTIVE REGULATIONS

40-3-1 ESTABLISHMENT OF DISTRICTS. In order to implement the regulatory scheme of this Code so as to achieve the objectives stated in **Section 40-1-1**, all the territory of Perry County other than territory within the corporate limits of municipalities which have adopted local zoning ordinances is hereby divided into the following zoning districts:

<u>DISTRICT</u>	<u>DESIGNATION</u>	<u>MINIMUM AREA*</u>
Agricultural	A	40 acres
Rural Single Family Residential	R-1	5 acres
Community Residential	R-2	5 acres
Commercial	C	2 acres
Industrial	I	5 acres
Flood Plain Overlay	O-FP	None
Planned Unit Development	PUD	20 acres

* The "minimum area" requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the areas of numerous noncontiguous parcels, when aggregated, happen to equal or exceed the minimum area indicated above.

40-3-2 ZONING MAP AND DISTRICT BOUNDARIES. The boundaries of the listed zoning districts are hereby established as shown on the official zoning map of the County. This map, including all notations and other information thereon, is hereby made a part of this Code by reference. The official zoning map shall be kept on file in the Administrator's office.

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

- (A) Where a district boundary as indicated on the zoning map approximately follows any of the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary:
- | | |
|--|----------------------------------|
| (1) Center line of any street or alley | Such centerline. |
| (2) Lot line | Such lot line. |
| (3) Railroad tracks | Right-of-way line of such tracks |

- | | |
|--|-----------------------|
| (4) Stream | Center of such stream |
| (5) Section, fractional, or survey lines | Such lines |

(B) Whenever any public right-of-way is legally vacated, the zoning districts of the owners of the underlying fee of such vacated public way shall automatically extend to the Vacated Way and all territory included in the vacated way shall thereafter be subject to all regulations of the extended districts.

(C) The final determination of the boundaries of the Flood Plain Overlay District shall be based upon the current National Flood Insurance Program (NFIP) "Maps" for Perry County, Illinois prepared by the Federal Emergency Management Agency (FEMA) and on file in the Zoning Administrator's office.

40-3-4 GENERAL PROHIBITION. Hereafter, it shall be unlawful to:

- (A) erect, use, occupy, enlarge, alter, relocate or reconstruct any structure or part thereof;
- (B) create any lot; or
- (C) use, occupy, or develop any lot or part thereof except in conformity with the provisions of this Code.

40-3-5 UNLISTED USES PROHIBITED. Any use not specifically listed as permitted or allowed by special use permit within a particular zoning district shall be deemed prohibited in that district until the County Board rezones the property in question or otherwise amends this Code in accordance with **Article IX Division V**.

40-3-6 MEETING MINIMUM REQUIREMENTS. Except as specifically provided otherwise in this Code, every lot must independently meet the minimum area, minimum dimensions and minimum setback requirements of the district in which it is located (i.e. without counting any portion of an abutting lot).

40-3-7 ACCESS REQUIRED. No structure shall be erected on any lot unless such lot abuts or has permanent access to a public street or a private street that conforms to the standards set forth in the Perry County Subdivision Code.

40-3-8 FRONT SETBACKS - CORNER/THROUGH LOTS. Every lot with multiple frontages (e.g. corner or through lots) shall meet the front setback requirement of the district in which it is located on every side that abuts a street.

40-3-9 INTRUSIONS INTO YARDS. To the extent indicated, the following features of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<u>FEATURES</u>	<u>MAXIMUM INTRUSIONS</u>
(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	No limit.
(D) Porches, if unenclosed and at ground level	Six (6) feet.
(E) Balconies	Four (4) feet.
(F) Canopies, roof overhangs	Four (4) feet.

40-3-10 EXCEPTION TO HEIGHT LIMITS.

(A) **Necessary appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations of the district in which they are located provided they comply with all other pertinent regulations of the County, State and Federal government.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by intersecting street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that is between **two (2) feet** and **ten (10) feet** above the level of the adjacent street.

(C) **Airport Hazard Areas.** Notwithstanding any other provision of this Code, all structures erected within any airport hazard area, as defined by State law, shall conform to the location, height and identification requirements imposed by the Illinois Department of Transportation pursuant to "An Act relating to Airport Zoning" (**15 1/2 ILCS 48.1-48.37**) and "An Act in Relation to Zoning to Eliminate Airport Hazards" (**620 ILCS 25/1-25/37**).

40-3-11 SEWERS, SEPTIC TANKS. In all districts, property owners of all structures and places where people live, work or assemble shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) Whenever the public sanitary sewer system is reasonably available (i.e. when the distance from the property in question to the nearest public sewer with available capacity does not exceed **three hundred (300) feet** for single family residences and **one thousand (1,000) feet** for commercial establishments or multi-family dwellings), all sewage shall be discharged into such system, whether or not a private sewer system is more convenient.

(B) Whenever the public sewer system is not reasonably available, a private sewer system (whether central or individual) shall be installed and used. All private sewer systems shall be designed, constructed, operated and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act (**225 ILCS 225**) as amended from time to time;
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, as amended from time to time;
- (3) Pertinent, current regulations issued by the **Illinois Environmental Protection Agency**; and
- (4) Applicable County or local codes and ordinances, particularly the **Perry County Subdivision Code**.

(C) A building permit shall not be issued until a private sewage permit has been issued by the Perry County Health Department.

The Administrator shall not issue any initial certificate of zoning compliance unless, following consultation with technically qualified persons as necessary, he is satisfied that these requirements will be met. Furthermore, no final certificate shall be issued until all final qualifications are met.

40-3-12 ONE DWELLING PER LOT. Except as specifically provided otherwise herein (the important exceptions being multiple-family complexes, mobile home parks, and residences in agricultural district occupied by persons engaged in agricultural activities), only one dwelling may be situated on any lot or lot of record. Thus, for example, it shall generally be unlawful to place a mobile home on any lot on which there is an existing dwelling.

40-3-13 ACCESSORY USES. Any accessory use (**See Section 40-2-2 "Selected Definitions"**) will be deemed permitted in a particular zoning district if such accessory use is:

- (A) accessory to a principal structure or use that is permitted in that zoning district or allowed by a special use permit that has been granted; and
- (B) in compliance with the restrictions set forth in **Section 40-3-14**.

40-3-14 ACCESSORY USE RESTRICTIONS.

(A) **Height.** No accessory use shall be higher than:

- (1) **fifteen (15) feet** in any residential district; or
- (2) **twenty-five (25) feet** in the commercial and industrial district.

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- (B) **Setbacks.**
- (1) In the commercial or industrial district, no accessory use shall encroach into any part of any yard (front, side, or rear) that is required by the minimum setback regulations of the particular district.
 - (2) In any residential district, accessory uses are prohibited in any required front yard, but permitted in any side or rear yard provided such accessory uses are not closer than **seven (7) feet** to any side or rear lot line.
 - (3) In any agricultural district, accessory uses are prohibited in the required front yard.

(C) **Use As Dwelling.** Use of any accessory structure as a dwelling is strictly prohibited in every zoning district.

(D) **Prohibited Storage Containers.** No railroad or train car nor any truck body or shell shall be construed as a storage container unless:

- (1) The proposed site is located in the Agricultural or Industrial District; and
- (2) A special-use permit has been granted in accordance with **Article IX Division II.**

40-3-15 AGRICULTURAL EXEMPTION. The provisions of this Code shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purpose (as defined herein), or with respect to the erection, maintenance, repair, alteration, remodeling, or extension of structures used or to be used for agricultural purposes upon such land; except that said structures are required to meet building setback requirements applicable in the district in which the structure is to be built. Should said land or structure cease to be used solely for agricultural purposes then, and only then, shall the other provisions of this Code apply (**55 ILCS 5/5-12000**).

ARTICLE IV

REGULATIONS FOR SPECIFIC DISTRICTS

DIVISION I - "A" AGRICULTURAL DISTRICT

40-4-1 "A" AGRICULTURAL DISTRICT. The carrying out of agricultural activities has long been, and continues to be, an important part of the way of life for Perry County residents, and such activities provide a large portion of the income derived by the County's population. Thus, to promote and protect this mainstay of the local economy, it has been established as official policy that the County should protect, preserve and encourage the pursuit of agriculture by its residents. The creation of the "A" Agricultural District is an integral part of that policy. The "A" District encompasses sparsely developed farm and woodland areas which, because of the fertility of the soil, topography, the availability of water, and other factors, including the suitability of the land for the raising of animals, have agricultural productivity. The regulations for this district are intended to preserve such agricultural land by severely restricting the encroachment of non-agricultural uses and structures. The owners and renters of property, whether farm or non-farm, in this district should realize that they will likely encounter the dust, smells, signs and sounds attendant to agricultural operations.

40-4-2 PERMITTED USES IN AGRICULTURE DISTRICT. Provided all pertinent requirements of this Code are met (See specifically **Section 40-4-30**), the following uses are permitted in the "A" District:

- Agriculture, including all of the uses and structures included in the definition of agriculture set forth in **Section 40-2-2**.
- Agriculture-associated businesses and rural services.
- Animal hospitals and veterinarian offices, provided that adequate safeguards are taken to protect adjacent properties from any adverse effects resulting from such uses.
- Bed & breakfast establishments.
- Carnivals and picnics sponsored by a government entity or a civic organization, provided that adequate safeguards are taken to protect adjacent properties from any adverse effects resulting from such operations, and that such carnivals and picnics do not last more than **ten (10) consecutive days**.
- Churches.
- Cemeteries and mausoleums.
- Detached single-family dwellings adhering to BOCA Code standards. Additional single-family dwellings shall be permitted on an agricultural lot of record provided the occupants of said single-family dwellings are directly related by birth, marriage or adoption to the owners and residents of the lots of record. Each additional single-family dwelling shall be located on a lot of at least **one (1) acre** in size. Only one such

additional dwelling lot can be conveyed unless such additional lots comply with the County Subdivision Code and the Illinois Compiled Statutes.

Government uses of the County or road district or municipality covered by this Code.

- Home occupations in accordance with **Section 40-5-2**.
- Kennels and stables.
- Nurseries and greenhouses.
- Non-commercial recreational uses.
- Parks and playgrounds.
- Railroad tracks and accessory equipment, but not including classification yards, terminal facilities, or maintenance facilities.
- Rental of farm dwellings by the owner of the farm on which they are located to persons not engaged in farming, provided that no lot separate from the farm is created, that the buildings are rented as single-family dwellings, and that the buildings existed before the effective date of this Code.

Accessory uses in accordance with **Section 40-3-13**.

40-4-3 SPECIAL USES IN AGRICULTURE DISTRICT. The following uses shall be permitted in the "A" District only upon the issuance of a special use permit in accordance with the provisions of **Article IX Division II**.

- Agricultural product processing plants.
- Airports.
- Commercial carnivals, circuses, and similar temporary, transient amusement activities not sponsored by a government entity or civic organization.
- Farm dwellings existing before the effective date of this Code may be sold as non-farm dwellings, provided at least **two (2) acres** is deeded with the dwelling, and provided further that, notwithstanding any contrary provision of this Code, the property owner may demolish the farm dwelling and replace it with a new non-farm dwelling.
- Government uses of a municipality not covered by this Code.
- Mobile homes on individual lots, provided all applicable requirements of this Code are met (**See Sections 40-4-30 and 40-5-5**).
- Mini-warehouses.
- Oil wells and gas drilling operations.
- Rented or leased seasonal dwellings.
- Schools.
- Stockyards.
- Temporary non-farm dwellings, including mobile homes, on the same lot as another principal use.
- Underground and surface mining, loading and hauling of coal or other minerals, provided that the provisions of **Section 40-5-8 and 40-5-9** are met as appropriate.

Utility substations, including electrical substations, gas regulation stations and similar facilities.

Wireless communication facilities.

Principally permitted uses in the "R-2" Community Residential District and the "C" Commercial District when proposed uses are clearly compatible with all adjacent properties as evidenced by affidavits executed by the owner(s) of such adjacent properties and an independent finding by the Perry County Zoning Board of Appeals that no farm based business, enterprise, or operation is negatively affected by the use for which the permit is sought. In determining compatibility with farm based businesses and operations the Perry County Zoning Board of Appeals will rely, in addition to other policies and standards it determines appropriate, on a Natural Resource Inventory Report as developed by the Perry County Soil and Water Conservation District. All expenses related to the generation of evidence of the compatibility of use under this Section are the responsibility of the applicant in addition to the standard fee for a special use permit. All special use permits issued under this category may not exceed a period of **ten (10) years** and will include enforceable conditions to insure compatibility including language that will terminate the permit in the instance Perry County determines the permitted use is not compatible with a farm based business, enterprise, or operation. (Ord. No. 2011-07; 05-05-11)

40-4-4 **BUFFER STRIPS.** Whenever any residential zone abuts the agriculture zone, a **sixty (60) foot** wide buffer strip shall be installed inside the residential district to minimize conflicts between agricultural operations and residences.

40-4-5 **RESERVED.**

DIVISION II - "R-1" RURAL SINGLE-FAMILY RESIDENTIAL DISTRICT

40-4-6 **"R-1" RURAL SINGLE-FAMILY RESIDENTIAL DISTRICT.** As stated in **Section 40-4-1**, the preservation of agricultural land has been established as County policy. However, it is recognized that some present and future County residents may desire to reside in a low-density, non-farm rural setting. Thus, the "R-1" Rural Single-Family Residential District has been created to accommodate this demand. The "R-1" District is not intended, however, to restrict agricultural operations; indeed, the owners and renters of land within the "R-1" District should realize that they will likely encounter the smells, sights, dust and noises attendant to agricultural operations.

The "R-1" Rural Single-Family Residential Districts may encompass, but not be limited to areas within municipal zone districts within **one and one-half (1 ½) miles** beyond a municipality's corporate limits. The "R-1" district is well-suited for low-density residential development and related uses. Thus, the district regulations are designed to encourage construction of single-family homes on large lots and to discourage development of incompatible uses.

40-4-7 **PERMITTED USES IN R-1 DISTRICT.** Provided all pertinent requirements of this Code are met (see especially **Section 40-4-30**), the following uses are permitted in the "R-1" District:

Detached single-family dwellings adhering to the International Residential Code, 2003 Edition. (Ord. No. 2009-09; 05-07-09)

Government uses of the County or road district or municipality covered by this Code.

Home occupations in accordance with **Section 40-5-2**.

Modular homes.

Parks and playgrounds.

Schools.

Accessory uses in accordance with **Section 40-3-13**.

40-4-8 **SPECIAL USES IN R-1 DISTRICT.** The following uses shall be permitted in the "R-1" District only upon the issuance of a special use permit in accordance with the provisions of **Article IX Division II**:

Bed & breakfast establishments.

Cemeteries and mausoleums.

Churches and other places of formal worship.

Government uses of a municipality not covered by this Code.

Institutional uses such as convents, retreat houses, etc.

Non-commercial recreational uses.

Railroad tracks and accessory equipment, but not including classification yards, terminal facilities or maintenance facilities.

Utility substations, including electrical substations, gas regulation stations and similar facilities only when landscaped and/or screened.

40-4-9 **RESERVED.**

DIVISION III - "R-2" COMMUNITY RESIDENTIAL DISTRICT

40-4-10 "R-2" COMMUNITY RESIDENTIAL DISTRICT. The "R-2" Community Residential District encompasses land within or near municipalities or other built-up areas that are best suited for the development of various housing types and compatible uses. The regulations of this district are intended to stabilize and preserve sound existing neighborhoods developed at varying densities, and to promote construction of new single-family houses, duplexes and multiple-family dwellings, and to promote the health, welfare and public safety in said areas.

40-4-11 PERMITTED USES IN R-2 DISTRICT. Provided all pertinent requirements of this Code are met (see especially **Section 40-4-7**), the following uses are permitted in the "R-2" District:

- Churches.
- Day care centers.
- Detached single-family dwellings and duplexes adhering to BOCA Code standards.
- Government uses of the County, road district, or municipality covered by this Code.
- Home occupations in accordance with **Section 40-5-2**.
- Hospitals and nursing homes, long term care facilities.
- Public parks and playgrounds.
- Schools.
- Accessory uses in accordance with **Section 40-3-13**.

40-4-12 SPECIAL USES IN R-2 DISTRICT. The following uses shall be permitted in the "R-2" District only upon the issuance of a special use permit in accordance with the provisions of **Article IX Division II**:

- Bed & breakfast establishments.
- Boarding houses.
- Clinics, medical/dental.
- Clubs or lodges, but not those which have as their chief activity a service customarily carried on as a business.
- Convenience stores.
- Government uses of a municipality not covered by this Code.
- Mobile homes on individual lots, provided all applicable requirements of this Code are met (see **Sections 40-4-30** and **40-5-5**).
- Mobile home parks in conformity with **Section 40-5-6**.
- Multiple-family dwellings of all classifications that do not exceed a total of **eight (8) units** per acre.

Railroad tracks and accessory equipment, but not classification yards, terminal facilities or maintenance facilities.

Temporary non-farm dwellings, including mobile homes, on the same lot as another principal use (See **Section 40-3-15; Agricultural Exemption**).

Utility substations, including electrical substations, gas regulation stations and similar facilities.

40-4-13 - 40-4-14 **RESERVED.**

DIVISION IV - "C" COMMERCIAL DISTRICT

40-4-15 "C" COMMERCIAL DISTRICT. The "C" Commercial District encompasses those areas--primarily within municipalities covered by this Code or on the outskirts of municipalities--where a wide variety of goods and services is available to the general public at retail or wholesale. While other uses are permitted in the Commercial Districts, there will likely be encountered the dust, smells, sights, noises and vibrations attendant to commercial operations.

40-4-16 WHEN SCREENING IS REQUIRED. Screening approved by the Administrator--which may include a wall, solid fence, or closely planted shrubbery at least **six (6) feet** high and of sufficient density to completely block the view from the adjacent residential property--shall be installed along the side and rear lot lines of any lot that abuts any Residential District.

40-4-17 PERMITTED USES IN COMMERCIAL DISTRICT. Provided all pertinent requirements of this Code are met (see especially **Section 40-4-7**), the following uses are permitted in the "C" District:

- Agricultural uses.
- Bed & breakfast establishments.
- Churches.
- Commercial uses/establishments.
- Detached single-family dwellings and duplexes adhering to BOCA Code standards.
- Government uses of the County, road district or municipality covered by this Code.
- Mixed residential/commercial adhering to BOCA Code standards.
- Multi-family dwellings adhering to BOCA Code standards.
- Offices.
- Service uses/establishments for the traveling public.
- Utility substations.
- Accessory uses in accordance with **Section 40-3-13** and **40-3-15**.

40-4-18 SPECIAL USES IN COMMERCIAL DISTRICT. The following uses shall be permitted in the "C" District only upon the issuance of a special use permit in accordance with the provisions of **Article IX Division II**:

- Clubs and lodges.
- Kennels and stables.
- Mini-warehouses.
- Moving and storage operations.

Newspaper printing plants.
Schools.
Taverns and bars.
Truck terminals.
Travel trailer parks.
Warehouses.

40-4-19 RESERVED.

DIVISION V - "I" INDUSTRIAL DISTRICT

40-4-20 "I" INDUSTRIAL DISTRICT. The "I" Industrial District encompasses areas where manufacturing and processing plants, research facilities, warehouses, and similar uses may locate without detriment to the remainder of the County. In these areas, a satisfactory correlation of factors required by such uses exists or can be readily achieved.

40-4-21 USE RESTRICTIONS.

(A) **No Nuisances.** No production, processing, cleaning, servicing, testing, repair, sale or storage of goods, materials or equipment shall unreasonably interfere with the use, occupancy or enjoyment of neighboring properties. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission, offensive glare, and noxious odors.

(B) **Buffer Strips.** Wherever any industrial use located in this district abuts any Residential or Commercial District, a **twenty-five (25) foot** wide view and noise control buffer strip shall be installed. Such buffer strip shall consist of densely planted shrubbery that is at least **four (4) feet** high when planted and that can be expected to reach a height of **ten (10) feet** when full-grown.

40-4-22 PERMITTED USES IN INDUSTRIAL DISTRICT. Provided all pertinent requirements of this Code are met (see especially **Sections 40-4-21 and 40-4-30**), the following uses are permitted in the "I" District:

- Agricultural uses.
- Assembly, manufacturing or processing of any commodity from raw or semi-finished materials.
- Commercial establishments, wholesale.
- Government uses of the County, road district or municipality covered by this Code.
- Research and development facilities not involving live animals.
- Utility substations.
- Warehouses and storage yards.
- Accessory uses in accordance with **Section 40-3-13**.

40-4-23 SPECIAL USES IN INDUSTRIAL DISTRICT. The following uses shall be permitted in the "I" District only upon the issuance of a special use permit in accordance with the provisions of **Article IX Division II**:

- Assembly, manufacturing, processing, warehousing, or wholesaling involving explosives, flammable gases or liquids, or live animals.

Government uses of a municipality not covered by this Code.
 Mini-warehouses.
 Oil wells and gas drilling operations.
 Research and development facilities involving live animals.
 Recycling centers.
 Salvage/junk yards, but only in accordance with **Section 40-5-4**.
 Sanitary landfills.
 Schools.
 Underground and surface mining, loading and hauling of coal or other minerals,
 provided that the provisions of **Section 40-5-8** and **40-5-9** are met as appropriate.

40-4-24 RESERVED.

DIVISION VI - "O-FP" FLOOD PLAIN OVERLAY DISTRICT

40-4-25 "O-FP" FLOOD PLAIN OVERLAY DISTRICT. The "O-FP" Flood Plain Overlay District delineates areas of the County as identified by the National Flood Insurance Program (NFIP) "Maps" for Perry County, Illinois prepared by the Federal Emergency Management Agency (FEMA) that, in the absence of adequate flood protection measures, are subject to periodic flooding which may result in injury to or loss of life and property, disruption of private and governmental services, impairment of the tax base, and the need for extraordinary relief measures. The purpose of this district is to alert the property owners and residents to the potential flood hazards associated with the land included in this district. Although it is not a requirement of this Code, owners of property located in this district are encouraged to limit development of this land to (1) uses which inherently have low flood damage potential and (2) other uses allowed in the primary districts (those districts overlain by the "O-FP" District), provided adequate protective measures have been taken.

40-4-26 - 40-4-29 RESERVED.

DIVISION VII - PLANNED UNIT DEVELOPMENT

40-4-30 PLANNED UNIT DEVELOPMENT. The Planned Unit Development District (PUD) zone may be developed under the provisions set forth in **Article X** of this Code.

DIVISION VIII

LOT SIZE, SETBACK AND HEIGHT RESTRICTIONS BY DISTRICT

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40-4-31 LOT SIZE, SETBACK AND HEIGHT RESTRICTIONS BY DISTRICT. Every lot or the principal structure thereon (as the case may be) shall comply with the minimum lot size, minimum setbacks, and maximum height restrictions for the particular district in which said lot/principal structure is located.

Restrictions	"A" District	"R-1" District	"R-2" District	"C" District	"I" District
(a) Minimum District Area	40 acres	5 acres	5 acres	2 acres	5 acres
(b) Minimum Lot Area	30 acres*	10,000 sq ft if connected to a public sewer system***; 1 acre elsewhere^^	12,000 sq ft or 3,000 sq ft per dwelling unit, whichever is greater, if connected to 1 public sewer system***; 1 acre elsewhere^^	6,000 sq ft if connected to a public sewer system***; 1 acre elsewhere^^	2 acres
(c) Minimum Lot Width: (at established building line)	800 ft**	70 ft if connected to a public sewer system; 100 ft if elsewhere	70 ft	70 ft	125 ft
(d) Minimum Lot Depth	800 ft**	70 ft if within 1.5 miles of municipal zone dist; 100 ft if Elsewhere	100 ft	100 ft	150 ft
(e) Minimum Setbacks^: (1) From front lot line: (2) From side lot line: (3) From rear lot line:	50 ft 25 ft 25 ft	35 ft 10 ft 25 ft	35 ft 10 ft 25 ft	35 ft 10 ft 10 ft	50 ft 25 ft 25 ft
(f) Maximum Structure Height:	None	25 ft****	25 ft****	35 ft*****	None

- * Or 2 acres for principally permitted agriculture-associated businesses and rural services.
- ** Or 300 ft for principally permitted agriculture-associated businesses and rural services.
- *** Such minimum lot areas shall conform to Subdivision Code for minimum lot sizes.
- **** Height may be increased to 35' with reciprocal front and rear yard setbacks to 25' each.
- ***** May be increased upon the documented approval of local fire protection authority.
- ^ See Perry County Subdivision Code, Section 4.4 - Lots and Section 5.5 - Setbacks.
- ^^ See Perry County Private Sewage Disposal Code, Section 2.9.1 - Permits & Requirements.

ARTICLE V

SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

40-5-1 APPLICABILITY OF ARTICLE. This Article establishes lot and structure requirements. This includes design standards and use limitations for specific, potentially troublesome structures and uses. These regulations apply in every zoning district where the specific structure or use is permitted; but, if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-5-2 HOME OCCUPATIONS. No home occupation shall be established or conducted except in conformity with the following regulations:

(A) **Unrelated Employees.** A home occupation shall employ not more than **one (1)** individual who is unrelated to the family residing on the premises.

(B) **Floor Space.** In residential districts, the total area used for a home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **three hundred (300) square feet**, whichever is less.

(C) **Dwelling Alterations.** A dwelling shall not be altered to accommodate a home occupation in such a way as to materially change the residential character of the building.

(D) **Outdoor Storage.** Outdoor storage of equipment or materials used in connection with a home occupation is prohibited in Residential Districts; however, limited use of an enclosed accessory structure is permissible for such storage needs.

(E) **Nuisances.** A home occupation shall not generate any offensive noise, vibration, smoke, dust, odors, heat, glare or electrical interference noticeable at or beyond the boundary line of the lot.

(F) **Parking.** Every home occupation shall provide **two (2)** off-street parking spaces in addition to the usual requirements for the dwelling (See **Section 40-6-6**): Said parking spaces shall be located on the same lot as the dwelling.

(G) **Sign.** A home occupation may display only **one (1)** identification/advertising sign attached to the home or accessory building. The area of said sign shall not exceed **six (6) square feet** and shall not be illuminated.

40-5-3 BED AND BREAKFAST.

(A) "Bed and breakfast establishment" shall mean an operator-occupied residence providing accommodations for a charge to the public with no more than **ten (10) guest rooms** for rent. Such establishments shall be in operation for more than **ten (10) nights** in a **twelve (12) month** period. Bed and breakfast establishments shall not include motels, hotels, and boarding houses.

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

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

(D) Bed and breakfast establishments shall be a permitted use in the agricultural and commercial districts and shall require a special use permit in all residential districts.

40-5-4 SALVAGE/JUNK YARDS.

(A) No part of any salvage/junk yard (see definition in **Section 40-2-2**) shall be located closer than **five hundred (500) feet** to the boundary of any Residential District.

(B) All vehicles, parts and equipment shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence or closely-planted shrubbery at least **ten (10) feet** high and of sufficient density to block the view from adjacent property.

40-5-5 MOBILE HOMES ON INDIVIDUAL LOTS. Every mobile home must meet the definition of mobile (manufactured) home as defined in **Section 40-2-2** of this Code. No person shall place any mobile home on an individual lot (i.e. not a lot in a mobile home park) except in conformity with the following regulations:

(A) **Special Use Permits/Age and Condition Requirements.** All mobile homes require a Special Use Permit pursuant to **Article IX Division II**. Special Use Permits for mobile homes shall not be issued for a period exceeding **ten (10) years** from the effective date of the permit. No mobile home shall be older than **ten (10) years** of age at the time of application for a Special Use Permit. A Special Use Permit will not be issued by Perry County if the Zoning Board of Appeals determines the mobile home in question to be unsafe or otherwise unsuitable for human occupancy as a result of deterioration and/or system failure(s). A copy of the Certificate of Title of a Vehicle is required as part of the application for a Special Use Permit in addition to any other component parts of the application as deemed appropriate by the Perry County Zoning Board of Appeals. Information provided about the mobile home on the Certificate of Title of a Vehicle will be used to determine the age of the mobile home.

(B) **Same Lot Size/Setbacks.** A mobile home may be placed on any individual lot only if the district's minimum lot size and setback requirements are strictly observed. Variances allowed in **Article IX Division IV** may not be applied to mobile homes on individual lots.

(C) **One (1) Per Lot.** Only **one (1)** mobile home shall be placed on any individual lot. A second mobile home may be permitted on an individual lot that equals or exceeds **two (2) acres** in the "A" Agriculture District when:

- (1) The individual lot in question is not served by a public sewer system.
- (2) The Zoning Board of Appeals determines in conjunction with the Perry County Health Department that sufficient land area exists to permit proper use of a private sewage disposal system.
- (3) The occupants of the second mobile home are directly related by birth, marriage, or adoption to the owners and/or residents of the lot of record.
- (4) The owners of record grant written permission through a notarized affidavit for the second mobile home to be placed during the term of the Special Use Permit.
- (5) Mobile homes placed on an individual lot must be spaced a minimum of **twenty (20) feet** apart.

(D) **Anchors.** In accordance with Federal standards, anchors capable of withstanding a vertical tension force of **four thousand eight hundred (4,800) pounds** shall be installed at the corners of every mobile home stand or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors and shall meet all Illinois Department of Public Health tie-down requirements.

(E) **Skirting.** Every mobile home shall be skirted with fire-resistant material. The skirting shall be equipped with an inspection door at least **twenty-four (24) inches** wide to allow access to the underside of the home.

(Ord. No. 2011-07; 05-05-11)

40-5-6 MOBILE HOME PARKS. After the effective date of this Code, no mobile home park shall be established except in conformity with the requirements of the subsections below:

(A) **Compliance with Illinois Law.** Every mobile home park shall, at a minimum, conform to the requirements of:

- (1) "An Act to provide for, license and regulate mobile homes and mobile home parks" (**210 ILCS 115**), and as amended; and
- (2) "Rules and Regulations for Mobile Home Parks," Illinois Department of Public Health, and as amended.

(B) **Minimum Lot Area, Setbacks, Etc.**

- (1) **Minimum Lot Area.** No mobile home park shall be located on a tract less than **two (2) acres** in area.
- (2) **Minimum Dimensions.** No mobile home park shall be developed on a tract less than **two hundred fifty (250) feet** in both width and depth.
- (3) **Minimum Setbacks.** No part of a mobile home or other structure in any mobile home park shall be situated closer than **twenty-five (25) feet** to any lot line of the park.
- (4) **Maximum Height.** No structure in any mobile home park shall be more than **thirty-five (35) feet** in height.

40-5-7 SANITARY LANDFILLS. Any person who intends to establish or conduct a sanitary landfill within the County shall obtain a permit from the Illinois Environmental Protection Agency indicating that the sanitary landfill fully complies with "Solid Waste Rules and Regulations" and other regulations promulgated by the IEPA pursuant to the authority granted by State law and must be consistent with the County Solid Waste Management Plan.

40-5-8 SURFACE MINING. It shall be unlawful for any operator to engage in surface mining in the County until a permit has been properly obtained from the Illinois Department of Natural Resources (IDNR) and has posted a performance bond in accordance with the provisions of applicable State statutes and regulations.

(A) **Reclamation Plans.** As set forth in state law, whenever any land in the County is proposed to be surface-mined, the prospective mine operator shall file a reclamation plan for public inspection at the County Clerk's office not less than **sixty (60) days** prior to any action on said plan by the Illinois Department of Natural Resources (IDNR). Within **forty-five (45) days** of receiving said plan, the County Board may:

- (1) request that a public hearing be conducted in the County by the Illinois Department of Natural Resources (IDNR); and
- (2) propose the uses for which surface-mined land is to be reclaimed.

(B) **Specific Requirements.** The following requirements must be met as a condition for obtaining a special use permit for underground mining activities:

- (1) no open pit shall be less than **five hundred (500) feet** from an existing residence or residential district established by this Code; and
- (2) all structures for screening, crushing, washing, mixing or storage shall be located not less than **one thousand (1,000) feet** from an existing residence or any Residential District established by this Code.

40-5-9 UNDERGROUND MINING. It shall be unlawful for any operator to engage in underground mining in the County until a permit has been properly obtained from the Illinois Department of Natural Resources (IDNR).

(A) **Specific Requirements.** The following requirements must be met as a condition for obtaining a special use permit for underground mining activities:

- (1) no open pit or shaft shall be less than **five hundred (500) feet** from an existing residence or residential district established by this Code; and
- (2) all structures for screening, crushing, washing, mixing or storage shall be located not less than **one thousand (1,000) feet** from an existing residence or any Residential District established by this Code.

40-5-10 GAS/OIL DRILLING OPERATIONS. It shall be unlawful for any operator to engage in gas/oil drilling operations in the County until a permit has been properly obtained from the Illinois Department of Natural Resources (IDNR). Gas/oil wells and gas/oil storage tanks shall conform to the setback requirements of the zoning district in which they are located.

40-5-11 SCREENING. Any screening (See definition in **Section 40-2-2**) must conform to the front yard (any yard that abuts a street) setback requirements of the district in which it is located, unless it is of a height and/or type that does not obstruct or physically interfere with the effectiveness of an official traffic sign, signal or device, or obstruct or physically interfere with a motor vehicle operator's view of approaching, merging or intersecting traffic.

ARTICLE VI

OFF-STREET PARKING

40-6-1 APPLICABILITY OF ARTICLE. Off-street parking shall be provided in accordance with this Article for all structures and uses erected or established after the effective date of this Code.

40-6-2 EXISTING OFF-STREET PARKING.

(A) Existing off-street parking located on the same lot as the use served shall not be reduced--or if already less than the standards of this Article, shall not be further reduced.

(B) When an existing structure is damaged or destroyed and subsequently repaired or rebuilt, off-street parking equivalent to any maintained at the time of such damage or destruction shall be restored, but additional off-street parking need not be provided unless **Section 40-6-2(C) or (D)** applies.

(C) Whenever the use of any structure or premises is intensified through addition of dwelling units, increased floor area, greater seating capacity, etc., additional off-street parking commensurate with such increases in use and/or intensity shall be provided.

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

40-6-3 PARKING LOT DESIGN STANDARDS. All off-street parking lots shall conform to the current edition of Architectural Graphic Standard. The Administrator shall maintain an office copy of the current edition for use by the public within the office.

40-6-4 SURFACING. Parking lots shall be graded and improved with crushed rock at least **eight (8) inches** thick and treated with a dust palliative approved by the Administrator upon consultation with the County Engineer.

40-6-5 LOCATION OF OFF-STREET PARKING. All off-street parking shall be located in conformity with the following requirements:

(A) **For Dwellings.** Parking spaces accessory to dwellings shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards so long as access for emergency vehicles remains unobstructed. Each parking space accessory to a multiple-family dwelling shall be unobstructed so that no vehicle need be moved to allow another vehicle to enter/exit the parking area.

(B) **For Commercial/Industrial Uses.**

(1) Every off-street parking space accessory to any commercial or industrial use shall be located within **six hundred (600) feet** of the use served; provided, that no portion of any parking lot for non-residential uses shall extend into any residential district or into the Agricultural District except by written permission of the Administrator.

(2) In the commercial or industrial district, off-street parking facilities for different structures or uses may be provided collectively, but only if the total number of spaces so located together is not less than the sum of the separate requirements for each structure or use and only if all other pertinent regulations are observed.

40-6-6 COMPUTATION OF REQUIRED PARKING SPACES. In computing the number of parking spaces required by this Code, the Administrator shall apply the following rules:

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

(B) In computing parking space requirements on the basis of building floor area, the **gross** floor area shall be used.

(C) Whenever it is necessary to translate gross parking lot area into number of parking spaces, **four hundred (400) square feet** of gross area shall be deemed **one (1) parking space**.

(D) If computation of the number of parking spaces required by this Code results in a fractional space, any fraction of **one-half (1/2)** or more shall be counted as **one (1) space**.

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

40-6-7 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. Where provided, all off-street loading facilities shall conform to the minimum standards indicated below:

(A) **Size of Space.** Every off-street loading space shall be at least **twelve (12) feet** wide and sufficiently long to accommodate the type of vehicle expected to use the space. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

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

(C) **Surfacing.** Every off-street loading area shall be improved with a compacted stone base at least **eleven (11) inches** thick with dust control provisions described in **Section 40-6-4.**

40-6-8 NUMBER OF PARKING SPACES REQUIRED. Off-street parking spaces shall be provided as indicated in the table below. For any use not listed in the table, the same number of parking space shall be provided as are required for the most similar listed use. The Administrator shall make the determination of similarity.

<u>Use</u>	<u>Parking Spaces Required</u>
(A) <u>Dwellings, Lodges:</u>	
Bed & breakfasts, hotels, motels, boarding houses and lodges	1 space per lodging unit, plus employee parking
Mobile homes, including those in mobile home parks	2 spaces per mobile home
Multiple family dwellings, 1 bedroom	1.5 spaces per dwelling unit
Multiple family dwellings, 2 or more bedrooms	2 spaces per dwelling unit
(B) <u>Education, Institution & Recreation:</u>	
Churches	1 space per 4 seats in the largest seating area
Hospitals	1 space per 2 beds, plus employee parking
Libraries & museums	1 space per 500 sq. ft. of floor area
Nursing Homes	1 space per 5 beds
Schools, Elementary and junior high	1 space for every 20 students, plus employee parking

<u>Use</u>	<u>Parking Spaces Required</u>
Schools, senior high	1 space for every 2 students of driving age
(C) <u>Commercial, Office & Service:</u>	
Banks, savings & loans, walk-in	1 space per 300 sq. ft. of floor area
Banks, savings & loans, drive-in	5 stacking spaces per teller window, plus employee parking
Beauty and barber shops	2 spaces per chair, plus employee parking
Furniture and appliance stores	1 space per 600 sq. ft. of floor area
Home occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation (not to exceed 2 spaces) in addition to the parking requirements for the dwelling
Medical and dental offices	1 space per 200 sq. ft. of floor area, or 2 spaces per practicing professional, whichever is greater
Mortuaries, funeral homes	1 space per 5 seats, plus 1 space per funeral vehicle, but not less than 20 spaces per chapel or state room
Restaurants, sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater
Restaurants, drive-in or walk-up	1 space per 25 sq. ft. of building floor area
Service stations & auto repair shops	1 space per service stall, plus employee parking
Taverns and bars	1 space per 4 seats, or 1 space per 50 sq. ft. of floor area, whichever is greater

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<u>Use</u>	<u>Parking Spaces Required</u>
Theaters and meeting halls	1 space per 4 seats in the largest seating area
Vehicle sales (including auto, boat, and trailer sales)	1 space per 600 sq. ft. of enclosed floor area, plus 1 space per 2,500 sq. ft. of open lot area
All other uses not specially indicated above	1 space per 300 sq. ft. of floor area
(D) <u>Standard Employee Parking:</u>	
Employee parking for all uses	1.5 spaces per employee

ARTICLE VII

NONCONFORMITIES

40-7-1 PURPOSE OF ARTICLE. The requirements imposed by this Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures and uses of land or structures that do not conform to the requirements of the district in which they are located impede appropriate development. For example, nonconformities are frequently responsible for truck traffic on residential streets, the overtaxing of parking facilities, the creation of nuisances, and/or the lowering of property values. **The regulations of this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.**

40-7-2 NONCONFORMING LOTS. Any vacant lot that does not conform to **one (1)** or more of the lot size requirements of the district in which it is located may be developed for any use permitted in that district, provided such vacant lot:

- (A) was recorded in the County Recorder's office prior to the effective date of this Code (or any pertinent amendment thereto); and
- (B) is at least **thirty (30) feet** wide; and
- (C) that no health hazards will be created by such use.

40-7-3 TWO OR MORE LOTS IN COMMON OWNERSHIP. If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum lot width, depth and area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code.

40-7-4 NONCONFORMING STRUCTURES. Any otherwise lawful structure which exists on the effective date of this Code but which could not be erected under the terms of this Code because of requirements/restrictions on lot size, height, setbacks or other characteristics of the structure or its location on the lot, may lawfully remain, subject to the following provisions:

- (A) **Enlargement, Alterations.** No such structure shall be enlarged or altered.

(B) **Relocation.** No such structure shall be relocated unless, after relocation, it will conform to all the regulations of the district in which it is located.

(C) **Reconstruction.** No such structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds **fifty percent (50%)** of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than **fifty percent (50%)** of the structure's market value at the time of loss, repairs or reconstruction shall be permitted, provided such work starts within **six (6) months** from the date the damage occurred and is diligently prosecuted to completion. The Administrator may provide for an extension of time. The Administrator may require that the reconstruction cost estimate be made by a licensed construction contractor, and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.

40-7-5 NONCONFORMING USES. Any otherwise lawful use existing on the effective date of this Code which would not be allowed under the terms of this Code may lawfully continue, subject to the following provisions. Dwelling units are not subject to these provisions, and may lawfully remain.

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Expansion of Use.** No nonconforming use may be expanded so as to occupy a larger portion of the structure or lot than was occupied on the effective date of this Code.

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

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

(E) **Discontinuance of Use.** When a nonconforming use is discontinued for **twelve (12)** consecutive months or for **thirty (30) months** during any **three (3) year** period, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

40-7-6 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not affect the terms of any permit issued prior to the effective date of this Code or any pertinent amendment thereto, provided that the work authorized by such permit is completed within **one (1)** calendar year of adoption.

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

40-8-1 ZONING ADMINISTRATOR. The office of Zoning Administrator of the County is hereby established. The Administrator shall be appointed by the County Board Chairman with the advice and consent of the County Board of Commissioners, and shall continue to hold office at the pleasure of the County Board. The Administrator is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (A) to review and pass upon applications for initial and final certificates of zoning compliance;
- (B) to inspect land, structures and uses to determine compliance with this Code, and, where there are violations, to initiate appropriate corrective action;
- (C) to review and forward to the Zoning Board of Appeals all applications for special use permits, variances, appeals and amendments;
- (D) to maintain up-to-date records of this Code including, but not limited to, the official district map, certificates of zoning compliance, special use permits, variances, interpretative decisions of the Board of Appeals, amendments and all applications related to these matters;
- (E) to periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations on these matters to the Zoning Board of Appeals at least once each year;
- (F) to provide information to the general public on matters related to this Code; and
- (G) to perform such other zoning-related duties as the County Board may prescribe.

40-8-2 INITIAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Code no lot shall be created, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed until an initial certificate of zoning compliance has been issued. **(See Section 40-3-15, Agricultural Exemption.)** The Administrator shall not issue an initial certificate of zoning compliance unless, he determines that the proposed work conforms to the applicable provisions of this Code.

40-8-3 APPLICATION. Every applicant for an **Initial Certificate of Zoning Compliance** shall submit to the Administrator, in graphic and narrative form on forms provided by the County, the items of information listed below. The Administrator shall decide if any items are not applicable. **(NOTE: Filing fee required.)**

ITEMS OF INFORMATION:

- (A) Name and address of the applicant;
- (B) Name and address of the owner or operator of the proposed lot, structure, or use, if different from (A);
- (C) Brief, general description/explanation of the proposal;
- (D) Location of the proposed lot, use or structure, and its relationship to adjacent lots, uses or structures;
- (E) Area and dimensions of the site for the proposed finished grade;
- (F) Height and setbacks of the proposed structure;
- (G) Number and size of proposed dwelling units, if any;
- (H) Location and number of proposed parking/loading spaces and access ways;
- (I) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (J) Any other pertinent information that the Administrator may require.

40-8-4 DURATION OF CERTIFICATE. **Initial Certificates of Zoning Compliance** shall be valid for **one (1) year**, or until revoked for failure to abide by a corrective action order. The Administrator may renew **Initial Certificates of Zoning Compliance** for successive **one (1) year** periods upon written request, provided the applicant is making a good faith effort to complete the authorized work.

40-8-5 RELATIONSHIP TO BUILDING PERMIT. No building permit will be issued in the County prior to or without presentation of an **Initial Certificate of Zoning Compliance**.

40-8-6 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot, or part thereof, recorded or developed after the effective date of this Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated or reconstructed after the effective date of this Code shall be used, occupied or put into operation until a final certificate of zoning compliance has been issued. **(See Section 40-3-15, Agricultural Exemption.)** The Administrator shall not issue a final certificate of zoning compliance until he has determined, **by inspection**, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with an approved plan. Failure to obtain a final certificate of zoning compliance shall constitute a separate violation of this Code.

40-8-7 **CORRECTIVE ACTION ORDERS.** Whenever the Administrator finds, by inspection or otherwise, that any lot, structure or use, or work thereon, is in violation of this Code, he shall so notify the responsible party and order appropriate corrective action.

40-8-8 **CONTENTS OF ORDER.** The order to take corrective action shall be in writing and shall include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of the remedial action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (F) The date by which an appeal of the correction order must be filed, and a statement of the procedure for so filing; and
- (G) A statement that failure to obey a corrective action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

40-8-9 **SERVICE OF ORDER.** A corrective action order shall be deemed properly served upon the owner, occupant or operator of the offending lot, structure or use if it is:

- (A) Served upon him personally;
- (B) Sent by registered mail to his last known address; or
- (C) Posted in a conspicuous place on or about the affected premises.

40-8-10 **STOP ORDER.** Whenever any work being done in violation of an **Initial Certificate of Zoning Compliance**, the Administrator's corrective action order may state that the violation must cease immediately. (See Section 40-8-8(D).) In such case, the corrective action order is equivalent to a stop order.

40-8-11 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Administrator determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-8-12 **COMPLAINTS.** Whenever any violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by the Administrator. The Administrator shall record such complaints, promptly investigate, and, if necessary, institute appropriate corrective action.

40-8-13 **FILING FEES.** By resolution, the County Board shall establish (and may periodically amend) a schedule of filing fees for the various permits and procedures listed in this Code. The fees are intended to defray the administrative costs connected with the processing/conducting of such permits or procedures; the fees do not constitute a tax or other revenue-raising device. All such fees are non-refundable and shall be paid by the applicant to the County Treasurer. A current schedule of filing fees shall be maintained in the Administrator's office and on file with the County Clerk.

40-8-14 **ENFORCEMENT AND PENALTIES.** Pursuant to **55 ILCS 5/5-12017** (Chapter 34, par. 50-12017), in case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this Section:

- (A) Perry County 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 building, structure, or land or to prevent any illegal act, conduct, business, or use in or about such premises; and
- (B) Perry County may also, if it so elects and gives written notice to the person or entity to have allegedly violated the Section, prosecute the person or entity for violation of the Section as a petty offense punishable by a fine not to exceed **Five Hundred Dollars (\$500.00)**, with each week the violation remains uncorrected constitution a separate offense. (**Ord. No. 2012-04; 07-05-12**)

ARTICLE IX

SPECIAL PROCEDURES AND PERMITS

DIVISION I - BOARD OF APPEALS

40-9-1 BOARD OF APPEALS ESTABLISHED. The Zoning Board of Appeals is hereby established in accordance with Illinois law. (55 ILCS 5/5-12010)

40-9-2 MEMBERSHIP CHAIRMAN, RESIDENCY. The Board of Appeals shall consist of **five (5) members** appointed by the County Board Chairman with the advice and consent of the County Board of Commissioners. At the time of these appointments, **one (1)** Board of Appeals member shall be named as Chairman by the County Board Chairman; if the Chairman's office becomes vacant, the County Board Chairman shall designate a new Chairman. A majority of the members shall have agricultural-related backgrounds and these appointments shall also be equally distributed from within the area zoned by the County. All members of the Board of Appeals shall reside in the area affected by the County Zoning Code with failure to maintain this residency cause for removal from the Board. The County Board may provide for the appointment of an additional **two (2) members** to the Board of Appeals and the additional members shall each serve a term of **five (5) years**. At the end of the term of the **two (2)** additional members, the County Board may provide for the appointment of successors or may allow the Board of Appeals to revert to **five (5) members**.

40-9-3 TERM OF OFFICE, VACANCIES. Every member of the Board of Appeals shall hold office for **five (5) years** from the date of his appointment, and until his successor has been selected and qualified; provided, however, that the initial appointees to the Board of Appeals shall serve respectively for the following terms; one for **one (1) year**, one for **two (2) years**, one for **three (3) years**, one for **four (4) years**, and one for **five (5) years**. The County Board may remove any member of the Board of Appeals for cause, after a public hearing. A vacancy on the Board of Appeals shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of a new member.

40-9-4 COMPENSATION. Each member of the Board of Appeals shall be compensated for his services on a per diem basis with a mileage allowance for travel. The amount of said compensation shall be determined by the County Board and paid by the County Treasurer.

40-9-5 MEETINGS, QUORUM. All meetings of the Board of Appeals shall be held at the call of the Chairman and at such times and places within the County as the Board of Appeals may determine. The Chairman or, in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. **Four (4) members** of a **five (5) member** Board of Appeals or **five (5) members** of a **seven (7) member** Board of Appeals shall constitute a quorum; and the affirmative vote of at least **four (4)** of the **five (5)** or **five (5)** of the **seven (7) members**, whichever the case may be, shall be necessary to recommend any variation, amendment, or affirmative action to the County Board.

40-9-6 RECORDS. The Board of Appeals shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order or decision of the Board of Appeals shall be filed in the Administrator's office and be a public record.

40-9-7 - 40-9-9 RESERVED.

DIVISION II - SPECIAL USE PERMITS

40-9-10 SPECIAL USE PERMITS. This Code divides the County into various districts and permits in each district, as a matter of right, only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation, and other factors. Such "special uses" require careful case-by-case review, and may be allowed only by permission of the County Board. **(55 ILCS 5/5-12009.5)**

40-9-11 APPLICATION. Every applicant for a special use permit shall submit to the Administrator, on forms provided by the County, the items of information listed below. (Every special use permit application shall additionally be filed with the County Soil & Water Conservation District as per state law **(70 ILCS 405/2202a)** and, if the land in question is within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality.) The Administrator shall promptly transmit the completed application, and any comments or recommendation he deems appropriate, to the Board of Appeals. **(Note: Filing fee required.)**

ITEMS OF INFORMATION:

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

40-9-12 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every special use permit application within a reasonable time after the application is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date and place of the hearing, and the nature of the proposed special use, shall be given not more than **fifteen (15) days** nor less than **seven (7) days** before the hearing:

- (A) By first class mail to the applicant and to all parties whose properties are adjacent to the property for which the special use permit is sought; and
- (B) By publication in a newspaper of general circulation within the County.

40-9-13 ADVISORY REPORT, FACTORS CONSIDERED. Within a reasonable time after the public hearing, the Board of Appeals shall submit its advisory report to the County Board. In deciding what its advice should be, the Board of Appeals shall consider the following factors:

- (A) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;
- (B) Whether the proposed design is adequately compatible with adjacent land uses;
- (C) The effect the proposed special use would have on the value of neighboring properties and on this County's overall tax base;
- (D) Whether there are any facilities near the proposed special use (e.g. schools, hospitals, etc.) that require special protection or consideration.

40-9-14 ACTION BY COUNTY BOARD. The County Board shall act on each request for special use permit at its next regularly scheduled meeting following submission of the Board of Appeals' advisory report. Without further public hearing, the County Board may grant a special use permit by an ordinance passed by a simple majority vote. Said ordinances may specify the term of the special use permit granted. In a separate statement accompanying any such ordinance, the County Board shall state its findings of fact, and indicate its reasons for approving (with or without conditions) or denying the request for special use permit.

40-9-15 - 40-9-19 RESERVED.

DIVISION III - APPEALS

40-9-20 APPEALS. Any person aggrieved by any decision or order of the Administrator in any matter related to the interpretation or enforcement of any provision of this Code may appeal to the Zoning Board of Appeals. Every such appeal shall be made and treated in accordance with Illinois law (**55 ILCS 5/5-12012**) and the provisions of this Division.

40-9-21 FILING, RECORD TRANSMITTAL. Every appeal shall be made within **forty-five (45) days** of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. Every appeal shall be filed with the **Soil and Water Conservation District** as per State law (**70 ILCS 405/22.02a**) and, if the land in question is within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality. Not more than **five (5) working days** after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. (**Note: Filing Fee required.**)

40-9-22 STAY OF FURTHER PROCEEDINGS. An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board of Appeals, after the notice of appeal has been filed with him, for reasons stated in the certificate, a stay would cause imminent peril to life or property. In such cases, further action shall not be stayed unless the Circuit Court grants a restraining order for due cause and so notifies the Administrator.

40-9-23 PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every appeal within a reasonable time after the filing of the appeal notice. At the hearing any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath. Notice indicating the time, date and place of the hearing and briefly describing the issue to be decided shall be given not more than **fifteen (15) days** nor less than **seven (7) calendar days** before the hearing:

- (A) By first class mail to the petitioner and to all parties whose properties are adjacent to the premises to which the appeal pertains;
- (B) By publication in a newspaper of general circulation within the County.

40-9-24 DECISION BY BOARD OF APPEALS. The Board of Appeals shall render a decision on the appeal within a reasonable time after the hearing. The Board of Appeals may reverse or affirm, in whole or in part, or may modify or amend the decision or order appealed to the extent and in the manner that it deems appropriate. In so doing, the Board of Appeals has all the powers of the Administrator.

40-9-25 - 40-9-29 RESERVED.

DIVISION IV - VARIANCES

40-9-30 VARIANCES. A variance is a relaxation of the strict application of the lot size, setbacks, or other area-bulk requirements of this Code that are applicable to a particular lot or structure. Every request for a variance shall be treated in accordance with Illinois law (55 ILCS 5/5-12009) and the provisions of this Section. Variances do not apply to desired relief in land uses.

40-9-31 APPLICATION. Every applicant for a variance shall submit to the Administrator, on forms provided by the County, the items of information listed below. (Every variance application shall also be filed with the County Soil and Water Conservation District as per state law (70 ILCS 405/22.02a) and, if the land in question is located within one and one-half (1 1/2) miles of a municipality, with the Clerk of that municipality. The Administrator shall promptly transmit said application to the Board of Appeals together with any recommendation or comments he may wish to make. (Note: Filing fee required.)

- (A) Name and address of the applicant;
(B) Location of the lot or structure for which the variance is sought;
(C) Relationship of said lot or structure to adjacent lots or structures;
(D) Specific section(s) of this Code containing the regulations which, if strictly applied, would cause a serious problem; and
(E) Other pertinent information that the Administrator may deem appropriate.

40-9-32 PUBLIC HEARING NOTICE. The Board of Appeals shall hold a public hearing on each variance request within a reasonable time after the variance application is submitted to them. At the hearing any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath. Notice indicating the time, date and place of the hearing and briefly describing the issue to be decided shall be given not more than fifteen (15) nor less than seven (7) calendar days before the hearing:

- (A) By first class mail to the petitioner and to all parties whose properties are adjacent to the premises to which the appeal pertains;
(B) By publication in a newspaper of general circulation within the County.

40-9-33 CONTENTS OF NOTICE. The notice of a public hearing on a variance request shall include the following information:

- (A) date, time and place of said hearing;

- (B) name and address of the applicant;
(C) the particular location of the real estate for which the variation is requested by legal description and street address, and, if no street address, then by locating such real estate with reference to any well-known landmark, road or intersection;
(D) whether or not the applicant is acting for himself or in the capacity of agent or representative of a principal, and stating the name and address of the true principal;
(E) whether the applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of twenty percent (20%) of all outstanding stock of such corporation;
(F) whether the applicant or his principal, if other than the applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true owners of such business or entity;
(G) whether the applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, and, if so, the names and addresses of all partners, joint venturers, syndicate members or members of the unincorporated voluntary association; and
(H) a brief statement describing the proposed variance.

40-9-34 STANDARDS FOR VARIANCES. The Board of Appeals shall not grant any variance unless, based upon the evidence presented to them, they determine that:

- (A) The proposed variance is consistent with the general purpose of this Code (See Section 40-1-1); and
(B) The proposed variances does not involve a use of land not permitted in the zone district; and
(C) Strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property; and
(D) The proposed variance is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property; and
(E) The plight of the applicant is due to circumstances not of his own making; and
(F) The circumstances engendering the variance request are peculiar and not applicable to other property within the district and, therefore, that a variance would be a more appropriate remedy than an amendment (re-zoning); and
(G) The variance, if granted, will not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of the County Comprehensive Plan.

40-9-35 TERMS OF RELIEF, FINDINGS OF FACT. The Board of Appeals shall render a decision on every variance request within a reasonable time after the public hearing. The Board shall specify the terms of relief granted (if any) along with its findings of fact. The findings of fact shall clearly indicate the Board of Appeals' reasons for granting or denying any requested variance.

40-9-36 - 40-9-39 RESERVED.

DIVISION V - RE-ZONING AND TEXT AMENDMENTS

40-9-40 RE-ZONING AND TEXT AMENDMENTS. The County Board may amend this Code in accordance with State law (**55 ILCS 5/5-12014**) and the provisions of this Section. Proposed alterations of district boundaries, proposed changes in the status of uses (permitted, special or prohibited) and proposed text changes shall be deemed proposed amendments. Amendments may be proposed by the County Board, the Administrator, the Board of Appeals, or any party in interest.

40-9-41 FILING. Every proposal to amend this Code shall be submitted to the Administrator on forms provided by the County and shall include information the Administrator considers necessary to allow the County Board to make an informed decision. The applicant proposing an amendment shall also file a copy of this proposal with the County Soil and Water Conservation District (**70 ILCS 405/22.02a**) and, if the land in question is located within **one and one-half (1 1/2) miles** of a municipality, with the Clerk of that municipality. The Administrator shall promptly transmit copies of the proposal, together with any comments or recommendation he deems appropriate to make to the Board of Appeals. (**Note: Filing fee required.**)

40-9-42 PUBLIC HEARING, LOCATION. The Board of Appeals shall hold a public hearing on every amendment proposal within a reasonable time after said proposal has been submitted. Said hearing shall be held in a public place convenient and in close proximity to the proposed re-zoning area insofar as reasonably possible. However, if the proposed amendment would affect a large area, or in the case of general (text) amendments to this Code, the public hearing may be held in the County Seat instead. At the hearing any interested party (including any school or other taxing district in which the property in question is located) may appear and testify, either in person or by duly authorized agent or attorney. All testimony shall be given under oath.

40-9-43 NOTICE OF PUBLIC HEARING. Notice indicating the time, date and place of the hearing and briefly describing the issue to be decided shall be given not more than **fifteen (15)** nor less than **seven (7) calendar days** before the hearing:
(A) by first class mail to the petitioner and to all parties whose properties are adjacent to the premises to which the appeal pertains;
(B) by publication in a newspaper of general circulation within the County.

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40-9-44 ADVISORY REPORT. Within a reasonable time after the public hearing, the Board of Appeals shall submit an advisory report to the County Board. The advisory report shall include a recommendation regarding adoption of the proposed amendment, and the reasons therefor. If the proposed amendment involves a rezoning, the advisory report shall include findings of fact concerning each of the following matter:

- (A) Existing use(s) and zoning of the property in question;
- (B) Existing use(s) and zoning of other lots in the vicinity of the property in question;
- (C) Suitability of the property in question for uses already permitted under existing regulations;
- (D) Suitability of the property in question for the proposed use;
- (E) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially zoned or last rezoned;
- (F) The effect the proposed rezoning would have on implementation of the County Comprehensive Plan.

40-9-45 ACTION BY COUNTY BOARD. The County Board shall act on every proposed amendment at their next regularly scheduled meeting following submission of the aforementioned advisory reports. Without further public hearing, the County Board may pass any proposed amendment by simple majority vote.

ARTICLE X - PLANNED UNIT DEVELOPMENT (PUD)

40-10-1 INTENT AND PURPOSE. This Article establishes provisions for rezoning of land within the County to provide for a Planned Unit Development (PUD). The purpose of this Article, Planned Unit Development, is to achieve the objectives enumerated at **Section 40-1-1** (the intent and purpose of this Code) plus the following additional objectives:

- (A) to provide a regulatory mechanism whereby the County can be assured that upon completion, approved development projects will substantially conform to the plans or models which constituted the basis for the County's issuance of the necessary zoning, subdivision, and/or building permits;
- (B) to permit development of a wide variety of building types and other structures and uses in a single comprehensively planned project;
- (C) to preserve the significant and prime farm land, natural topography, scenic features, mature trees, and historic structures existing on sites proposed for development;
- (D) to encourage innovative site layouts and coordinated architectural treatment of different building types and other structures and uses;
- (E) to ensure the provision of usable common open space in planned developments, and to spur installation of various amenities therein;
- (F) to facilitate the economical installation of standard streets, sewers, utilities, and other improvements.

40-10-2 COMPLIANCE WITH ORDINANCES. Except as specifically provided otherwise in this Section, planned unit developments (PUDs) shall, comply and conform with all applicable codes and ordinances including this Code and the Subdivision Code.

40-10-3 WHERE DISTRICTS ARE ALLOWED. Planned unit developments (PUDs) may be built in any geographic location affected by this Code, but only upon rezoning and a planned unit development district by the County Board of Commissioners.

40-10-4 PERMISSIBLE DEVIATION FROM CODE REQUIREMENTS. The planned unit development (PUD) concept is intended to afford both the developer and the County considerable flexibility in formulating development proposals. Consequently, to the extent indicated in this Section, PUDs may deviate from generally applicable code requirements without a variance. Any proposed deviation not listed below, however, shall require a variance.

- (A) **Mixed Uses.** PUDs may include all types of buildings and other structures and uses approved by the County Board of Commissioners; provided, that in

approving such mixed construction and uses, the County Board of Commissioners may attach any conditions necessary to protect the public welfare.

- (B) **Lot and Structure Requirements.** In PUDs, the County Board of Commissioners may approve any reasonable deviation from the lot and structure requirements of the particular zoning district so long as the different uses within the PUD are appropriately interrelated and property abutting the PUD is adequately protected from any potential adverse impacts of the development. "Lot and structure requirements" means minimum individual lot area, width, and depth; minimum setbacks; and maximum structure height.

- (C) **Location of Parking/Loading Spaces.** By permission of the County Board of Commissioners, off-street parking and loading spaces in PUDs need not be located in accordance with generally applicable requirements. The minimum number of such spaces, however, shall not be less than the number required as per **Article VI**.

40-10-5 PRELIMINARY PUD DEVELOPMENT PLANS. Every applicant for preliminary PUD development plan approval shall comply with the procedural requirements of this Section. The required procedures are as follows:

- (A) Filing PUD development plan with the Administrator;
- (B) Review of the PUD development plan by the Zoning Board of Appeals;
- (C) Public hearing by the County Zoning Board of Appeals as per the requirement of **Article IX, Division II**;
- (D) Recommendation by the County Zoning Board of Appeals to the County Board of Commissioners regarding approval/rejection of the PUD development plan; and
- (E) action by County Board of Commissioners on the PUD development plan.

40-10-6 APPLICATION; INFORMATION REQUIRED. Every applicant for approval of a preliminary PUD development plan shall submit to the Zoning Administrator, in narrative and/or graphic form, the items of information listed below:

- 40-10-6.1 WRITTEN DOCUMENTS.**
 - (A) Legal description of the total site proposed for development;
 - (B) Names and addresses of all owners of property within or adjacent to the proposed PUD;
 - (C) Statement of the planning objectives to be achieved by the PUD through the particular approach proposed by the applicant, including a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;

(D) Development schedule indicating the approximate date when construction of the PUD or phases of the PUD can be expected to begin and be completed;

(E) Statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the PUD, such as land areas, building units, etc.

(F) Data indicating:

- (1) total number and type of proposed building units;
- (2) gross and net acreage of parcel;
- (3) acreage of gross and usable open space; and
- (4) area of various uses.

40-10-6.2 GRAPHIC MATERIALS.

(A) Existing site conditions, including contours at **five (5) foot** intervals and locations of watercourses, flood plains, wetlands, unique natural and man-made features, and wooded areas;

(B) Proposed lot lines and plot designs;

(C) Proposed location, size (square feet), and general appearance of all existing and proposed buildings and other structures and uses;

(D) Location and size (acres or square feet) of all areas and facilities conveyed, dedicated, or reserved as common open spaces, public parks and recreation areas, linear paths, and similar public and semi-public uses;

(E) Existing and proposed vehicular circulation system, including off-street parking and loading areas and major points of ingress and egress to the development (notations of proposed ownership--public or private--should be included where appropriate);

(F) Existing and proposed pedestrian or other specially identified circulation systems, including their relationship to the vehicular circulation system and proposed treatments of points of conflict;

(G) Existing and proposed utility systems including sanitary and storm sewers, and water, electric, gas, cable and telephone lines;

(H) General landscape plan indicating the treatment of both private and common open spaces and the location of required buffer strips;

(I) Enough information on land areas adjacent to the proposed PUD to indicate the relationships between the proposed development and existing and proposed adjacent areas;

(J) Any additional information required by the County to evaluate the character and impact of the proposed PUD.

40-10-7 ADVISORY REPORT, CRITERIA CONSIDERED. The Administrator shall submit to the County Zoning Board of Appeals a written advisory report concerning acceptance/rejection of the PUD development plan. In deciding what its advice should be, the Administrator shall consider the following criteria:

(A) The extent to which the proposed development is consistent with the County's Comprehensive Plan and with the purposes of this Code and of all other applicable codes and ordinances;

(B) The extent to which the proposed development deviates from the regulations that are generally applicable to the property (including but not limited to, the use and lot and building regulations of the district), and the apparent merits (if any) of said deviations.

(C) Whether the proposed design of the PUD makes adequate provisions for vehicular, pedestrian and other specially identified circulation, off-street parking and loading, separation of the different land uses, open space, park and recreation areas and facilities, preservation of unique natural and man-made features, and agricultural land;

(D) The compatibility of the proposed PUD with adjacent properties and surrounding area; and

(E) Any other reasonable criteria that the Administrator may devise.

40-10-8 PUBLIC HEARING BY ZONING BOARD OF APPEALS. Upon receipt of the advisory report, the County Zoning Board of Appeals shall hold a public hearing as per the requirements of **Article IX, Division V**. Within a reasonable time following the hearing, the County Zoning Board of Appeals shall file a report of the hearing and its advisory report with the County Board of Commissioners accompanied by the advisory report of the Administrator.

40-10-9 DECISION BY BOARD OF COMMISSIONERS. After the Board of Appeals has submitted its advisory report, the County Board of Commissioners, by resolution, shall either approve or disapprove the preliminary PUD development plan. The County Board of Commissioners shall not approve any preliminary PUD development plan unless:

(A) The State's Attorney has stated that all legal instruments (particularly the restrictive covenants) are satisfactory; and

(B) The proposed PUD, as evidenced by the development plan, complies with all applicable codes and ordinances. (Deviations to the extent permitted under **Section 40-10-4** shall not be deemed noncompliance.)

40-10-10 FINAL DEVELOPMENT PLANS. With respect to the preparation, submission, and review of PUD final development plans, the developer and this County shall comply with the regulations of the following subsections.

(A) **Filing, Information Required.** Not later than **one (1) year** after the approval of the preliminary PUD development plan, the applicant shall file with the Zoning Administrator the final PUD development plan for the first phase of the proposed PUD. Said final PUD development plan shall contain in final form all the items of information listed at **Section 40-10-6**, plus the following:

- (1) proof that the developer has acquired legal title to all land within the PUD or has executed a binding agreement with all the owners of such land thereby giving the developer effective control over its development;
- (2) legal description of each lot to be individually owned and each parcel to be held in common;
- (3) articles of incorporation and bylaws of any/all property owners association(s) identified;
- (4) restrictive covenants and any other legal instruments required by the State's Attorney guaranteeing the proper upkeep and use of the common open space and park and recreation areas.
- (5) legal instruments dedicating streets and other improvements to the County or conveying same to an identified property owners association (as the case may be).

(B) **Advisory Report.** Not later than **sixty (60) days** after the application for final PUD development plan approval is filed, the Administrator, the County Engineer, and the State's Attorney shall submit a written advisory report to the County Board of Commissioners. The report shall fully discuss the extent to which the final PUD development plan conforms to the approved preliminary PUD development plan and to all other applicable codes and ordinances.

(C) **Action by County Board.** At its next regularly scheduled meeting following submission of the report, the County Board of Commissioners shall, by ordinance, either approve or disapprove the PUD final development plan. The County Board of Commissioners shall not approve any final PUD development plan unless:

- (1) the developer has posted a performance bond or deposited funds in escrow in an amount the County Engineer deems sufficient to guarantee the satisfactory completion of all required improvements; and the State's Attorney has stated that all legal instruments (particularly restrictive covenants and "dedications") are satisfactory; and
- (2) the proposed PUD, as evidenced by the final PUD development plan, complies with all applicable codes and ordinances and substantially conforms to the approved preliminary PUD development plan.

40-10-11 CHANGES IN APPROVED PLANS. No changes shall be made to any approved PUD development plan except as follows:

- (A) **Minor** changes if required by engineering or other circumstances not foreseen at the time the final PUD development plan was approved.
- (B) All other changes shall require a public hearing before the County Zoning Board of Appeals and a resolution by the County Board of Commissioners.

(C) No approved change shall have any effect until it is recorded with the County Recorder as an amendment to the recorded copy of the PUD development plan.

40-10-12 FAILURE TO BEGIN DEVELOPMENT. If a substantial amount of construction has not begun within the time stated in the approved construction schedule, the PUD development plan shall lapse upon written notice to the applicant from the County Board of Commissioners and shall be of no further effect. However, in its discretion and for good cause, the County Board of Commissioners may extend for a reasonable time the period for the beginning of construction. If a final PUD development plan lapses as per this Section:

- (A) Any building permits shall automatically become null and void; and
- (B) all zoning regulations applicable before the PUD was approved shall automatically be in full effect.

APPENDIX "A"

SCHEDULE OF FILING FEES

OFFICE OF THE PERRY COUNTY ZONING ADMINISTRATOR

	<u>Filing Fee</u>	<u>Publication Cost</u>
Zoning Certificate of Compliance***	\$25.00	\$50.00
Special Use Permit	\$100.00	\$50.00
Zoning Map Amendment	\$100.00	\$50.00
Appeal	\$100.00	\$50.00
Variance	\$100.00	\$50.00

*** Certificate of Compliance fee is applicable only for structures requiring a building permit.

(Ord. No. 2008-04; 01-10-08)

APPENDIX "B"

SCHEDULE OF FEES

	<u>Amount</u>	<u>Verified Low or Moderate Income Applicant</u>
1. Certificate of Zoning Compliance		
A. If a building permit is required	\$25.00	\$25.00
B. If no building permit is involved	-0-	-0-
2. Special Use Permit	\$150.00	\$25.00
3. Map or Test Amendment	\$150.00	\$25.00
4. Appeal	\$150.00	\$25.00
5. Variance	\$150.00	\$25.00

VERIFICATION OF LOW TO MODERATE INCOME HOUSEHOLD

In order to use the low or moderate income household fee schedule for any zoning action, the Zoning Administrator must verify that the gross family income for the principally benefiting applicant is below the following HUD Section 8 income guidelines for Perry County, Illinois.

<u>Family Size</u>	<u>Income Limit</u>
1	\$29,250
2	\$33,400
3	\$37,600
4	\$41,750
5	\$45,100
6	\$48,450
7	\$51,750
8	\$55,100

It is the responsibility of the principally benefiting applicant to provide the Zoning Administrator with sufficient income verifying information over the previous twelve-month period to ascertain the household income status. Tax returns and/or current pay stubs are typical types of information needed. The Zoning Administrator will maintain the privacy of all records provided, return all private records upon verification of household income, and certify the qualification of income status within the files of the zoning action. The Section 8 income standards are modified from time to time by the Department of Housing and Urban Development. The income guidelines current to the date of the requested zoning action will be utilized for purposes of the income verification.

(Res. No. 2008-31; 02-07-08)