

Chapter 38

ZONING

Article I. In General

- Sec. 38-1. Purpose.
- Sec. 38-2. Scope.
- Sec. 38-3. Definitions; general terms.
- Sec. 38-4. Village plan.
- Sec. 38-5. Official zoning map.
- Sec. 38-6. Amendments to zoning maps.
- Sec. 38-7. Zoning enforcement officer.
- Secs. 38-8—38-32. Reserved.

Article II. Districts

Division 1. Generally

- Sec. 38-33. Establishment of districts.
- Sec. 38-34. Rules for district boundaries.
- Sec. 38-35. Annexed territory.
- Sec. 38-36. Uniformity of application.
- Sec. 38-37. Conformity with district regulations and standards.
- Sec. 38-38. Structures.
- Sec. 38-39. Main structures and uses.
- Sec. 38-40. Accessory uses and structures.
- Sec. 38-41. Access.
- Sec. 38-42. Existing structures.
- Sec. 38-43. Minimum floor elevation.
- Sec. 38-44. Application of standards.
- Sec. 38-45. Permitted uses in districts.
- Sec. 38-46. Compliance with requirements; limited applicability.
- Sec. 38-47. Minimum dimensions.
- Sec. 38-48. Permitted excess.
- Sec. 38-49. Nonapplicability of standards.
- Sec. 38-50. Conformity with district standards.
- Sec. 38-51. Minimum yard dimensions.
- Sec. 38-52. Other standards.
- Sec. 38-53. Minimum lot area.
- Sec. 38-54. Required open spaces.
- Sec. 38-55. Limitations on reduction by sale.
- Sec. 38-56. Lot depth.
- Sec. 38-57. Measurement of lot depth.
- Sec. 38-58. Measurement of lot width.
- Sec. 38-59. Exempted structures and uses.
- Secs. 38-60—38-76. Reserved.

MINIER CODE

Division 2. Residential District

- Sec. 38-77. Description.
- Sec. 38-78. Permitted uses.
- Sec. 38-79. Dwelling regulations and standards.
- Sec. 38-80. Height.
- Sec. 38-81. Setback lines.
- Sec. 38-82. Yards.
- Secs. 38-83—38-107. Reserved.

Division 3. Commercial District

- Sec. 38-108. Description and purpose.
- Sec. 38-109. Permitted uses.
- Sec. 38-110. Performance standards.
- Sec. 38-111. Location of commercial establishments.
- Sec. 38-112. Signs.
- Sec. 38-113. Off-street parking spaces.
- Sec. 38-114. Off-street loading berths.
- Sec. 38-115. Buffer strip.
- Sec. 38-116. Floor area ratio.
- Sec. 38-117. Height.
- Sec. 38-118. Yards.
- Secs. 38-119—38-149. Reserved.

Division 4. Industrial District

- Sec. 38-150. Description.
- Sec. 38-151. Permitted uses.
- Sec. 38-152. Signs.
- Sec. 38-153. Buffer strip.
- Sec. 38-154. Off-street parking spaces.
- Sec. 38-155. Off-street loading berths.
- Secs. 38-156—38-178. Reserved.

Division 5. Agricultural District

- Sec. 38-179. Description.
- Sec. 38-180. Permitted uses.
- Sec. 38-181. Special setbacks and buffer zones for certain permitted uses and prohibitions.
- Sec. 38-182. Electric fences.
- Secs. 38-183—38-202. Reserved.

Article III. Solar Energy

- Sec. 38-203. Purpose of article.
- Sec. 38-204. Encouragement of solar energy.
- Sec. 38-205. Definitions and rules of construction.
- Sec. 38-206. Requirement of a solar energy building permit.
- Sec. 38-207. Prohibited solar energy systems.
- Sec. 38-208. Installation restrictions.

ZONING

- Sec. 38-209. Maintenance of PSES.
- Sec. 38-210. Penalties and remedies.
- Secs. 38-211—38-228. Reserved.

Article IV. Trailers

- Sec. 38-229. License required.
- Sec. 38-230. Plan.
- Sec. 38-231. Supervision.
- Sec. 38-232. Spaces.
- Sec. 38-233. Water supply.
- Sec. 38-234. Sanitary facilities.
- Sec. 38-235. Garbage.
- Sec. 38-236. Lights.
- Sec. 38-237. Exceptions.
- Secs. 38-238—38-267. Reserved.

Article V. Nonconformities

- Sec. 38-268. Description.
- Sec. 38-269. Statement of intent.
- Sec. 38-270. Enlargement, expansion, extension not permitted.
- Sec. 38-271. When rights of conforming use or structure granted.
- Sec. 38-272. Nonconforming lots of record.
- Sec. 38-273. Nonconforming uses of land.
- Sec. 38-274. Nonconforming structures.
- Sec. 38-275. Nonconforming trailer coaches.
- Sec. 38-276. Nonconforming uses of structures.
- Sec. 38-277. Nonconforming signs.
- Sec. 38-278. Repairs and maintenance.
- Secs. 38-279—38-304. Reserved.

Article VI. Special Uses

Division 1. Generally

- Sec. 38-305. Description and purpose.
- Sec. 38-306. Authorizing special use permits.
- Sec. 38-307. Schedule of special uses.
- Sec. 38-308. Applicability of district regulations.
- Sec. 38-309. Zero lot line regulations.
- Secs. 38-310—38-336. Reserved.

Division 2. Specific Regulations for Certain Uses

- Sec. 38-337. Specific regulations for commercial establishments.
- Sec. 38-338. Application for special use.
- Sec. 38-339. Hearing date and notice of public hearing.
- Sec. 38-340. Hearing by zoning board on special use.

MINIER CODE

- Sec. 38-341. Vote of the village board.
- Sec. 38-342. Implementation.
- Secs. 38-343—38-372. Reserved.

Article VII. Variances

- Sec. 38-373. Description and purpose.
- Sec. 38-374. General rules and standards.
- Sec. 38-375. Limitation in granting variances.
- Sec. 38-376. Application for variance.
- Sec. 38-377. Hearing date and notice of public hearing.
- Sec. 38-378. Hearing by zoning board on variance.
- Sec. 38-379. Vote of the village board.
- Secs. 38-380—38-401. Reserved.

Article VIII. Building Permits and Certificates of Occupancy

- Sec. 38-402. Building permit application.
- Sec. 38-403. Certificate of occupancy.
- Secs. 38-404—38-434. Reserved.

Article IX. Board of Appeals

- Sec. 38-435. Organization.
- Sec. 38-436. Appeals, how taken.
- Sec. 38-437. Jurisdiction.
- Sec. 38-438. Standards.
- Sec. 38-439. Miscellaneous.
- Sec. 38-440. Appeals to court.
- Secs. 38-441—38-463. Reserved.

Article X. Amendment of Regulations and Districts

- Sec. 38-464. Procedure for proposing amendments.
- Sec. 38-465. Procedure on petition before hearing.
- Sec. 38-466. Hearing date and notice of public hearing.
- Sec. 38-467. Hearing by zoning board on amendment.
- Sec. 38-468. Vote of the village board.
- Secs. 38-469—38-489. Reserved.

Article XI. Violations and Penalties

- Sec. 38-490. Penalty.
- Sec. 38-491. Civil remedies.

ARTICLE I. IN GENERAL**Sec. 38-1. Purpose.**

The zoning districts established and the zoning regulations and standards adopted herein have been made for the purpose of:

- (1) Securing adequate light, pure air and safety from fire and other dangers;
- (2) Conserving the value of land, buildings and structures throughout the village;
- (3) Lessening and avoiding congestion in the public streets;
- (4) Lessening and avoiding hazards to persons and damage to property resulting from the accumulation of runoff of stormwaters or floodwaters;
- (5) Promoting the public health, safety, comfort, morals and general welfare;
- (6) Regulating and limiting the height and bulk of buildings and structures to be erected;
- (7) Establishing, regulating and limiting the building or setback lines on or along any street, trafficway, drive, parkway or stormwater or floodwater runoff channel or basin;
- (8) Regulating and limiting the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures;
- (9) Classifying, regulating and restricting the location of trades and industries and the location of buildings, structures and land designed for specified industrial, commercial, residential and other uses;
- (10) Dividing the entire village into districts of such number, shape, area and such different classes according to the use of land, buildings and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purposes of this chapter;
- (11) Fixing regulations and standards to which buildings, structures or uses therein shall conform;
- (12) Prohibiting uses, buildings or structures incompatible with the character of such districts; and
- (13) Preventing additions to and alteration or remodeling of existing buildings, structures or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this chapter.

(Code 1981, § 21-1-2)

Sec. 38-2. Scope.

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or resolutions, except those specifically repealed by this chapter or amendments hereto, or with private restrictions

placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the village is a party. When this chapter imposes a greater restriction upon land, buildings or structures than is imposed or required by such existing provisions of law, ordinance, resolution, contract or deed, the provisions of this chapter shall control.

(Code 1981, § 21-1-3)

Sec. 38-3. Definitions; general terms.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Access means egress or ingress.

Accessory means, as applied to a building, structure or use, one which is on the same lot with, incidental and subordinate to the main or principal structure or use and which is used for purposes customarily incidental to the main or principal structure, or the main or principal use.

Agriculture means the growing, harvesting and storing of crops, including legume, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, nurseries, orchards, forestry and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms and fish and wildlife farms; farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition of the term "agriculture" to include all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse wherein the agricultural products produced primarily by others are stored or processed.

Alley means a permanent service right-of-way which affords only a secondary means of access to property abutting such right-of-way and is not intended for general traffic circulation.

Alter or alteration means any change in the bearing walls, columns, beams, girders or supporting members of a structure; any change or rearrangement in the floor area of a building, any enlargement of a structure whether by extending horizontally or by increasing in height, or any movement of a structure from one location or position to another.

Animal hospital means an establishment for the treatment or boarding of small animals such as dogs, cats, rabbits and birds by a veterinarian.

Area, building, means the total area taken on a horizontal plane at the largest floor level of the main or principal building and all accessory buildings on the same lot exclusive of uncovered porches, terraces, steps or awnings, marquees and nonpermanent canopies and planters.

Area, floor, habitable, means the sum of the horizontal areas of all rooms in a building, exclusive of basement or cellar, used for habitation, such as living room, dining room, kitchen, bedroom, bathroom or closet, but not including hallways, stairways, service rooms or utility rooms, nor unheated rooms, such as enclosed porches, nor rooms without at least one window or skylight opening onto a yard or court, measured between the interior faces of walls.

Area, lot, means the total area within the lot lines.

Asylum means a building having facilities for inpatient nursing care, where physicians and other medical professionals diagnose and treat human mental ailments.

Automobile means a self-propelled, free-moving motor vehicle for the conveyance of persons on a street and having a seating capacity for not more than ten persons.

Awning means a retractable or removable roof-like structure which, when opened or extended, projects from the wall of a building or structure and overhangs the public way or adjacent yard or court.

Basement means a story having part but not more than one-half its height below grade.

Berth, loading, means a stall of dimensions herein specified, adjacent to a loading dock for the maneuvering and parking of a vehicle for loading and unloading purposes.

Billboard means any structure or portion thereof upon which a sign or advertisement used as an outdoor display for the purpose of making anything known to the general public is affixed. The term "billboard" does not include any bulletin boards used to display official court, public notice or church bulletins.

Block means property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting or intercepting street and railroad right-of-way, waterway, unsubdivided area or other definite boundary.

Boardinghouse means a dwelling containing at least three dwelling units or lodging units in whatever combinations. Meals are provided within such boardinghouse to the residents of the lodging units.

Buffer strip means an area, property, lot or tract of land or portion thereof, either vacant or landscaped with screen planting as herein specified, which shall serve as a separating space between dissimilar land uses or districts.

Building means an enclosed structure having a room supported by columns, walls, arches or other devices and used for the housing, shelter or enclosure of persons, animals and chattels.

Building restriction line means a line usually parallel to the front, side or rear lot line set so as to provide the required yards for a building or structure.

Building, attached, means a building having two walls in common with other buildings.

Building, detached, means a building having no walls in common with other buildings.

Building, main or principal, means the building in which is conducted the main or principal use of the lot on which it is located.

Building, semi-detached, means a building having one wall in common with another building.

Camp means a tract of land, on which may be located buildings, structures or camping vehicles, which land, together with appurtenances thereon, is used for seasonal, recreational or other similar purposes. A camping vehicle shall not be located in such camp for more than 30 consecutive days. The term "camp" shall not be deemed to include a hospital, sanitarium, nursing or convalescent home, asylum, school, penal or correctional institution, nor a trailer camp.

Canopy means a nonretractable roof-like structure of either a permanent or nonpermanent nature which projects from the wall of a structure, is supported above the surface of the ground by poles, posts, columns, beams, girders or other similar framework attached to the ground, and overhangs or covers the public way or adjacent yard or court.

Cellar means a story having less than one-half of its height above grade.

Clinic means an establishment without facilities for inpatient nursing care, where one or more physicians and other medical professionals diagnose and treat human physical or mental ailments.

Comprehensive plan means the complete plan or any of its parts for the development of the county as prepared by the tri-county regional planning commission or other planning agency and adopted by the governing body as the official plan.

Construction means the excavation of earth to provide for a foundation, basement or cellar; or, the addition to or removal from a lot or tract of land of earth or water so as to prepare the lot or tract of land for the construction of a structure; or, the act of placing or affixing a component of a structure upon the ground or upon another such component or the placing of construction materials in a permanent position and fastened in a permanent manner; or, the demolition, elimination or removal of an existing structure in connection with such construction.

Court means an open space, other than a yard, on the same lot with a building which is bounded on two or more sides by, but is not enclosed by, the walls of such building.

Coverage means the percentage of the lot area covered by the building area.

Curb level means the average elevation of the established curb of a street taken along the curblin between the points of intersection of the curblin and the lot lines. When no curb

has been established, the curb level shall be the average elevation of the land surface taken along the street right-of-way line between the points of intersection of the right-of-way line and the lot lines.

District means a section of the village in which zoning regulations and standards are uniform.

Dock, loading, means a platform-like structure adjacent to a loading berth from which goods are loaded on, and on which goods are unloaded from a vehicle parked in such loading berth.

Dwelling means a building designed for residential living purposes and containing one or more dwelling units or lodging units.

Dwelling unit means one or more rooms constituting all or part of a dwelling which are used exclusively as living quarters for one family and not more than two roomers or boarders, and which contain a stove, sink and other kitchen facilities.

Dwelling, group, means a group of two or more single-family or multifamily dwellings, whether attached, semi-detached or detached, in whatever combination, occupying a lot in one ownership.

Dwelling, multifamily, means a dwelling containing three or more dwelling units.

Dwelling, single-family, means a dwelling containing one dwelling unit.

Dwelling, two-family, means a dwelling containing two dwelling units with one dwelling unit arranged on the story above the other dwelling unit.

Egress means the way over which traffic moves to a street or alley from the property abutting such street or alley and the way over which traffic moves to a major street from a minor street or alley.

Establishment means a business, retail, office or commercial use. When used in the singular, the term "establishment" shall be construed to mean a single use, building, structure or premises of one of the types here noted.

Family means:

- (1) An individual; or
- (2) Two or more persons related by blood, marriage or adoption; or
- (3) Maximum of five persons not so related;

together with his or their domestic servants and gratuitous guests maintaining common household in a dwelling unit or lodging unit.

Floor area ratio means the ratio of the floor area of a building to its lot area. For example, when a floor area ratio of 0.4 is specified, the floor area of a building constructed on a lot of 10,000 square feet in area is limited to a maximum of 4,000 square feet. The number of

stories being optional, the building area may be 4,000 square feet for one story, 2,000 square feet for each of two stories, and so forth. The purpose of this ratio is to control the bulk of buildings.

Functional definition means a description of a category of land, structure or uses, which outlines the general function of such uses as opposed to a detailed listing of such uses. For example, the functional definition of the agriculture district is "designed to accommodate agricultural uses of all types."

Grade means the average of the elevations of the surface of the ground measured at all corners of a building.

Height means:

- (1) As applied to a story, the vertical measurement between the surface of any floor and the surface of the floor next above it, or, if there is no floor above, then the vertical measurement between the surface of the floor and the ceiling next above it.
- (2) As applied to a building, the vertical measurement from grade to a point midway between the highest and lowest points of the roof.
- (3) As applied to a structure:
 - a. Detached structure: The vertical measurement from the average level of the ground immediately surrounding such structure to the uppermost portion of such structure.
 - b. Attached structure: When such structure is attached to another structure and is in direct contact with the surface of the ground, the vertical measurement from the average level of the surface of the ground immediately adjoining such structure to the uppermost portion of such structure shall be the height. When such structure is attached to another structure and is not in direct contact with the surface of the ground, the vertical measurement from the lowest portion of such structure to the uppermost portion shall be the height.

Home occupation means a gainful occupation or profession conducted entirely within a dwelling or in a structure accessory thereto, or conducted in connection with a dwelling, and carried on by the residents therein, provided such occupation or profession is clearly incidental and secondary to the use of the dwelling for residential living purposes.

Hospital means a building having facilities for inpatient nursing care where physicians and other medical professionals diagnose and treat human physical ailments.

Hotel means a building containing separate accommodations for use by primarily transient persons. A hotel may contain restaurants, barbershops and other accessory services for serving primarily its residents and only incidentally the public.

Ingress means the way over which traffic moves from a street or alley to the property abutting such street or alley and the way over which traffic moves from a major street to a minor street or alley.

Junkyard means a lot, land, building or structure, or part thereof used primarily for the collecting, storage or sale of wastepapers, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts therefrom.

Kennel, commercial, means a structure for sheltering or keeping dogs, bitches and puppies which either is registered or listed as a kennel by a commercial organization; keeps or boards animals not belonging to a family dwelling on the premises; or keeps more than three such animals that are more than six months old.

Lodging unit means one or more rooms constituting all or part of a dwelling which are used exclusively as living quarters for one family and do not contain cooking facilities.

Lodginghouse means a dwelling containing at least three dwelling units or lodging units in whatever combination. Meals are not provided within such lodginghouse to the residents of the lodging units.

Lot, when used alone, means a zoning lot unless the context of this chapter clearly indicates otherwise. The term "lot" shall include the terms "plot" and "parcel."

Lot lines means the lines bounding a lot.

Lot, corner, means a lot located:

- (1) At the junction of and abutting two or more intersecting streets; or
- (2) At the junction of and abutting a street and the nearest shoreline or high-water line of a stormwater or floodwater runoff channel or basin; or
- (3) At the junction of and abutting two or more stormwater or floodwater runoff channels or basins; or
- (4) At the abutting point of abrupt change of a single street when the interior angle is less than 135 degrees and the radius of the street is less than 100 feet.

Lot, interior, means a lot other than a corner lot.

Marquee means a nonretractable roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way or adjacent yard or court.

Motel means a building or a group of buildings, whether detached, semi-detached or attached, containing accommodations for primarily transient automobile travelers. The term "motel" includes such buildings designated as tourist courts, tourist cabins, motor lodges and other similar terms.

Motor bus means a self-propelled free-moving motor vehicle for the conveyance of persons on a street and having a seating capacity for 11 or more persons.

Motor truck, heavy, means a self-propelled free-moving motor vehicle for the conveyance of goods on a street and having a load capacity of 1½ tons or more.

Motor truck, light, means a self-propelled free-moving motor vehicle for the conveyance of goods on a street and having a load capacity of less than 1½ tons.

Motor vehicle means a self-propelled free-moving vehicle for the conveyance of goods or persons on a street.

Nonconforming lot, structure or use means a lot, sign, structure or use which does not conform to the regulations and standards of the district in which it is located.

Nonconforming premises means a nonconforming lot with a nonconforming structure located on it.

Nursing or convalescent home means a building containing sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care for hire.

Open space means the unoccupied space open to the sky on the same lot with a structure.

Owner or ownership means an individual, firm, association, syndicate, partnership, corporation, company, organization, trust or any other legal entity having a proprietary interest in a use, structure, premises, lot or tract of land.

Parking lot means a lot, court, yard or portion thereof used for the parking of vehicles.

Parking space means a space accessory to a use or structure for the parking of one vehicle, the size of which shall be determined as herein specified. A parking space may be located within a building or structure or in the open.

Performance standards means criteria established to control the use of land, structures and premises by the amount of noise, odor, smoke; toxic or noxious matter, radioactive fire and explosive hazards; and the glare of heat or light generated by or inherent to the use of land, structures and premises.

Planned development means a tract of land which is developed as a unit under single ownership or control which includes two or more main or principal structures and is identified to its main or principal use by its functional definition prefix, as a dwelling group.

Plat means a map, plan or layout showing the subdivision of land and indicating the location and boundaries of individual lots.

Property is the general term denoting, either singularly or in combination, an area, lot, parcel, tract, plot, unit or otherwise designated portion of land.

Right-of-way means the entire dedicated tract or strip of land that is to be used by the public for circulation and service.

Ringelmann chart means a chart which is described in the U.S. Bureau of Mines Information Circular 6888, and on which are illustrated graduated shades of gray for use in grading the density of smoke or particulate matter being observed.

Sanitarium means a private hospital or asylum.

Sanitary landfill means a method of disposing of garbage, trash, refuse or any combustible material of an organic nature by the spreading and daily covering of such materials with earth to a depth of not less than two feet on the top surface and one foot on the sides of the bank.

Sanitary sewer means a constructed conduit for the collection and carrying of liquid and solid sewage wastes, other than stormwaters, to a sewage treatment plant or disposal facility.

School means a building or group of buildings, and all associated structures, facilities and grounds in and on which instruction is given.

Screen planting means a vegetative material of sufficient height and density to filter adequately from view, in adjoining districts, structures and uses on the premises upon which the screen planting is located.

Setback line means the building restriction line nearest the front of and across a lot establishing the minimum distance to be provided between the line of a structure located on the lot and the nearest street right-of-way line or centerline or the nearest shore line or high-water line of a stormwater or floodwater runoff channel or basin.

Sidewalk means that paved portion of the right-of-way designed and intended for the movement of and use of pedestrian traffic.

Sign means any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency, of any civic, charitable, religious, patriotic, fraternal or similar organization or any sign indicating address. Each display surface of a sign shall be considered a sign.

Smoke unit means the emission of smoke of a density of Ringelmann Number 1 for a period of one minute. For example: Smoke emitted for five minutes at a density of Ringelmann Number 3 would constitute 15 smoke units.

Special condition means a condition for the establishment of a special use.

Special use means a use permitted in a district pursuant to, and in compliance with, procedures specified herein.

Story means that portion of a building included between the surface of the floor next above it, or if there is no floor above, then the space between any floor and the ceiling next above it.

Street means a thoroughfare within the right-of-way which affords the principal means of access to abutting property. A street may be designated as an avenue, a boulevard, drive, highway, lane, parkway, place, road, thoroughfare or by other appropriate name. Streets are identified as follows:

Highway means a street of regional or intercommunity importance for the swift movement of heavy traffic and identified as a highway on the zoning map.

Major street means a street which facilitates the movement of traffic from minor streets to the highways and designated as a major street on the zoning map as a highway or major street.

Minor street means any other street, either publicly dedicated or private, not designated on the zoning map as a highway or major street.

Structure.

- (1) The term "structure" means anything constructed or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, the term "structure" includes buildings, walls, swimming pools, fences, billboards, porches and signs.
- (2) The term "structure" also includes open-sided roofed automobile shelters, whether permanently affixed or not permanently affixed to the surface of the ground, if it is in use for more than 30 days per calendar year.

Structure, attached, means a structure connected to another structure.

Structure, detached, means a structure not connected to another structure.

Structure, main or principal, means the structure in or on which is conducted the main or principal use of the lot on which it is located.

Subdivision means any division, development or resubdivision of any part, lot, area or tract of land by the owner or agent, either by lots or by metes and bounds, into lots two or more in number, for the purpose, whether immediate or future, of conveyance, transfer, improvement or sale, with the appurtenant streets, alleys and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or owners within the tract subdivided. The division of land for agricultural purposes not involving any new street, alley or other means of access, shall not be deemed a subdivision for the purpose of the regulations and standards of this chapter.

Theater, outdoor drive-in, means an open lot or part thereof with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions on a commercial basis to patrons seated in automobiles or on outdoor seats.

Tourist home means a dwelling containing the dwelling unit of the owner or operator and containing separate accommodations primarily for transient automobile travelers.

Trailer camp means a tract of land meeting the standards established by the county health authorities and by the state department of health:

- (1) When two or more inhabited trailer coaches are parked; or
- (2) Which is used by the public as parking space for two or more inhabited trailer coaches.

Trailer coach means any portable or mobile vehicle or mobile home used for residential living purposes by a family. For the purpose of this chapter, such vehicle shall be classified as a trailer coach whether or not its wheels, rollers, skids or other roller equipment have been removed, or whether or not any addition thereto has been built on the ground.

Use means the specific purpose for which land, a structure or premises is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

Used or occupied, as applied to any land, building, use, structure or premises, shall be construed to include the words "intended, arranged or designed to be used or occupied or located."

Variance means a deviation from the regulations or standards adopted by this chapter which the board is permitted to grant when strict enforcement would cause undue hardship owing to circumstances unique to the individual property, lot, structure or premises for which the variance is sought.

Vehicle means a conveyance, either self-propelled, in or on which persons or goods are transported on the surface of the ground, including, but not limited to, automobiles, motor buses, motor trucks, tractors, sleighs, wagons, earth moving equipment and other such conveyances.

Window means an opening in an exterior wall of a building, other than a door, which provides all or part of the natural light or ventilation, or both, to an interior space.

Yard means an open space, other than a court, on the same lot with a structure, lying between the structure and the nearest lot line, and is unoccupied and unobstructed from the surface of the ground upward, except as may be specifically provided by the regulations and standards herein.

Yard, front, means a yard extending the full width of a lot and situated between the front lot line and the nearest line of a structure located on the lot. When a lot is located such that its rear and front lot lines each abut a street right-of-way line or the nearest shoreline or high-water line of a stormwater or floodwater runoff channel or basin, both such yards shall be classified as front yards. Each yard of a corner lot facing a street right-of-way line or the shoreline or high-water line of a stormwater or floodwater runoff channel or basin shall be classified as a front yard.

Yard, rear, means a yard extending the full width of a lot and situated between the rear lot line and the nearest line of a structure located on the lot.

Yard, side, means a yard situated between the side lot line and the nearest line of a structure located on the lot and extending from the rear line of the required rear yard.

Zone. See *District*.

Zoning lot means a single property, parcel, unit, tract, plot or otherwise designated portion of land, having metes and bounds, which is designated to be used as a unit under

single ownership or control, and which may be occupied by one or more structures and the accessory structures, or uses customarily incidental to it, including such open spaces as are arranged and designed to be used in connection with such structure. A zoning lot may or may not coincide with a lot of record.

(Code 1981, § 21-2-4; Ord. No. 732, 5-17-2005)

Sec. 38-4. Village plan.

The official plan of the village shall consist of the following:

- (1) The village plan heretofore approved by the president and board of trustees shall consist of a map of the village, charts and diagrams showing proposed additions to and improvements of the village streets, parks, public buildings, sewage or disposal system, water system and street lighting system;
- (2) The specifications for street construction and paving established by the president and board of trustees;
- (3) This chapter; and
- (4) Chapter 30, pertaining to subdivisions.

(Code 1981, § 7-6-1)

Sec. 38-5. Official zoning map.

The location and boundaries of the districts established by this chapter are as shown on the zoning map, which map, together with all explanatory matter thereon, is adopted by reference and incorporated in the ordinance from which this section is derived, and is made a part of this chapter just as if fully described herein. A copy of the map shall be and remain on file in the office of the clerk.

(Code 1981, § 21-3-2)

Sec. 38-6. Amendments to zoning maps.

All amendments to this chapter which affect the location and boundaries of the districts established herein or of districts established shall be accompanied by, as part of the amending ordinance, a copy of the zoning map as modified by the amending ordinance, showing the changes made by the amendment, or in lieu thereof, a detailed description of such changes. In addition, when major changes are made to the area zoned by this chapter, accompanying the amending ordinance there shall be a copy of the official zoning map as so modified, which shall be designated: "Amended Official Zoning Map No. _____ of the Village of Minier," and which shall be known as the official zoning map from and after the effective date of the amending ordinance, until replaced by a subsequent amendment.

(Code 1981, § 21-3-3)

Sec. 38-7. Zoning enforcement officer.

The zoning enforcement officer is authorized and directed to enforce all the provisions of this chapter. The zoning enforcement officer shall be appointed by the village board. The zoning enforcement officer shall have the power to:

- (1) Issue building permits.
 - (2) Grant certificates of occupancy permits.
 - (3) Make inspections of buildings and premises to carry out the duties of administration and enforcement of this chapter.
 - (4) Perform such other functions necessary and proper to enforce and administer the provisions of this chapter.
- (Code 1981, § 21-14-1)

Secs. 38-8—38-32. Reserved.**ARTICLE II. DISTRICTS****DIVISION 1. GENERALLY****Sec. 38-33. Establishment of districts.**

For the purpose of promoting the public health, safety, morals and general welfare, the village is divided into the following types of districts:

R	Residential District
C	Commercial District
I	Industrial District
A	Agricultural District

(Code 1981, § 21-3-1; Ord. No. 668, 3-17-1998)

Sec. 38-34. Rules for district boundaries.

When uncertainty exists as to the boundaries of districts shown on the official zoning map, the following rules shall apply:

- (1) *Streets and alleys.* Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.
- (2) *Lot lines.* Boundaries indicated as approximately following recorded lot lines shall be construed as following such lot lines.
- (3) *Village limits.* Boundaries indicated as approximately following village limits shall be construed as following such village limits.
- (4) *Railroad lines.* Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

- (5) *Parallels or extensions.* Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (4) of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- (6) *Other.* When physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by subsections (1) through (5) of this section, the zoning board shall interpret the district boundaries.

(Code 1981, § 21-4-1)

Sec. 38-35. Annexed territory.

All territory which may be annexed to the village shall be considered as being in the R-1 Residential District until otherwise changed by ordinance.

(Code 1981, § 21-4-2; Ord. No. 695, 5-16-2000)

Sec. 38-36. Uniformity of application.

The regulations and standards set by this chapter within each district shall be minimum regulations and standards and shall apply uniformly to each class, kind or type of structure, use or land except as hereinafter provided.

(Code 1981, § 21-5-1)

Sec. 38-37. Conformity with district regulations and standards.

No structure or land shall be used or occupied and no structure or part thereof shall be constructed, erected, altered, remodeled, extended or moved unless in conformity with all the regulations and standards herein specified for the district in which it shall be located.

(Code 1981, § 21-5-2)

Sec. 38-38. Structures.

No structure shall be constructed, erected, altered, remodeled, extended or moved:

- (1) To exceed the height;
- (2) To occupy or house a greater number of families;
- (3) To occupy a greater percentage of the lot area;
- (4) To exceed the floor area ratio;
- (5) To have smaller or less habitable floor area per dwelling unit or lodging unit;
- (6) To exceed the maximum floor area;

than hereinafter required or in any manner contrary to the regulations and standards of the district in which it is located.

(Code 1981, § 21-5-3)

Sec. 38-39. Main structures and uses.

In no case other than in planned developments shall there be more than one main or principal structure, or main or principal use on one lot or tract of land.
(Code 1981, § 21-5-4)

Sec. 38-40. Accessory uses and structures.

No accessory use shall be established prior to the establishment of the main or principal use, and no accessory structure shall be constructed, erected, altered, remodeled, extended or moved prior to the establishment or construction of the main or principal structure, except those accessory uses and structures of a temporary nature required for the establishment of the main or principal use, or for the construction of the main or principal structure.
(Code 1981, § 21-5-5)

Sec. 38-41. Access.

No structure shall be constructed or erected on a lot or tract of land or moved to a lot or tract of land which does not abut a public street or permanent easement of access to a public street. Such easement shall have a minimum width of 20 feet unless an easement of less width was on record prior to the effective date of the ordinance from which this section is derived.
(Code 1981, § 21-5-6)

Sec. 38-42. Existing structures.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designated use of any structure existing or upon which construction was lawfully begun prior to the effective date of the ordinance from which this section is derived, provided that such structure shall be completed within one calendar year from the effective date of the ordinance from which this section is derived.
(Code 1981, § 21-5-7)

Sec. 38-43. Minimum floor elevation.

Minimum floor elevation of any building constructed on land subject to flood shall be at least two feet above the highest known high-water line.
(Code 1981, § 21-5-8)

Sec. 38-44. Application of standards.

The performance standards, regulations and standards, rules, requirements, provisions and restrictions set by this chapter shall apply to all structures, uses, lots and tracts of land created or established after the effective date of the ordinance from which this section is

derived and shall not be deemed to require any change in the structures, uses, lots or tracts of land lawfully existing on the effective date of the ordinance from which this section is derived, except as expressly specified hereinafter.

(Code 1981, § 21-5-9)

Sec. 38-45. Permitted uses in districts.

The uses permitted in one district shall not be permitted in any other district unless specifically stated.

(Code 1981, § 21-5-10)

Sec. 38-46. Compliance with requirements; limited applicability.

No part of a yard, buffer strip or other open space, off-street parking space or loading berth, or lot area required about or in connection with any structure or use for the purpose of complying with the regulations and standards of this chapter shall be included as part of a yard, buffer strip or other open space, off-street parking space or loading berth, or lot area similarly required for any other structure or use.

(Code 1981, § 21-5-11)

Sec. 38-47. Minimum dimensions.

No yard, buffer strip or other open space, off-street parking space or loading berth, or lot existing on the effective date of the ordinance from which this section is derived shall be reduced in dimension or area below the requirements set forth hereinafter. Yards, buffer strips or other open spaces, off-street parking spaces or loading berths, or lots created or established after the effective date of the ordinance from which this section is derived shall meet at least the minimum requirements established by this chapter.

(Code 1981, § 21-5-12)

Sec. 38-48. Permitted excess.

The height of any main or principal structure or accessory building may exceed the maximum permitted height by one foot for each additional foot by which the width of each yard exceeds the minimum yard dimension for the district in which such structure is located.

(Code 1981, § 21-5-13)

Sec. 38-49. Nonapplicability of standards.

Height regulations and standards shall not apply to spires, belfries, penthouses or domes not used for human occupancy nor to chimneys, ventilators, skylights, water tanks, bulkheads, utility poles and towers, silos, grain elevators and other necessary mechanical appurtenances, provided their location shall conform where applicable to the regulations and standards of the Federal Communications Commission, the Federal Aviation Administration and other public authorities having jurisdiction.

(Code 1981, § 21-5-14)

Sec. 38-50. Conformity with district standards.

All buildings and all main or principal structures shall be positioned in conformity with the setback line regulations and standards specified hereinafter for the district in which they are located.

(Code 1981, § 21-5-15)

Sec. 38-51. Minimum yard dimensions.

Notwithstanding any other provisions of this chapter, the minimum yard dimensions in this article shall not be reduced except through action by the zoning board, the county board or by operation of law.

(Code 1981, § 21-5-16)

Sec. 38-52. Other standards.

The following yard regulations and standards shall apply to all lots or tracts of land on which a structure is located:

- (1) Yards shall be kept unobstructed for their entire depth, except as specified hereinafter.
- (2) Private driveways, service drives, easements, sidewalks, flag poles, arbors, trellises, fences, walls, columns, light poles, hydrants, patios, accessory signs and other decorative recreational and utility devices and equipment may be placed in any yard.
- (3) Visibility. Notwithstanding any other provisions of this chapter, the following visibility regulations and standards shall apply:
 - a. *Interior lots.* Fences, walls or hedges may be placed in any yard, provided that no fence, wall or hedge along the sides or front edge of the front yard of an interior lot shall exceed the height herein permitted.
 1. Along the front property line, and the side property lines to the building setback line, a height of four feet.
 2. From the building setback line along the side and rear property line, a fence, wall or hedge may be placed not to exceed eight feet in height.
 - b. *Corner lot.*
 1. On a corner lot nothing shall be constructed, erected, placed, planted or allowed to grow in such manner as to obstruct the vision of traffic approaching the corner from either direction.
 2. A fence, wall or hedge may be placed on a corner lot beginning at the building setback line along the side and rear property line not to exceed eight feet in height.
 - c. *Junkyards and automobile salvage yards.* Junkyards and automobile salvage yards shall have a solid fence or wall eight feet in height placed along the front

of the property at the building setback line, and along the side or rear property lines to screen the property from view. Entrance gates to the property shall also be constructed of a solid material the same height as the fence.

(Code 1981, § 21-5-17)

Sec. 38-53. Minimum lot area.

Unless the regulations and standards of the district in which lots are located require greater lot areas, lot widths or lot depths, the following regulations and standards shall apply to lots platted or created after the effective date of the ordinance from which this section is derived:

- (1) A lot without a public water supply system and without a public sanitary sewer system shall be not less than 20,000 square feet in area.
- (2) A lot served by either a public water supply system or a public sanitary sewer system shall be not less than 8,500 square feet in area.

(Code 1981, § 21-5-18)

Sec. 38-54. Required open spaces.

Lots platted or created shall have adequate lot area, width and lot depth to provide for off-street parking spaces and loading berths, yards, buffer strips and other open spaces required.

(Code 1981, § 21-5-19)

Sec. 38-55. Limitations on reduction by sale.

Lots platted or created shall not be reduced in area, width or depth by sale, development or subdivision so that lot area, lot width, lot depth, lot area per dwelling unit, lot area per loading unit, yards, buffer strips or other open spaces required are narrower or smaller than specified hereinafter.

(Code 1981, § 21-5-20)

Sec. 38-56. Lot depth.

No lot platted or created shall be less than 100 feet in depth.

(Code 1981, § 21-5-21)

Sec. 38-57. Measurement of lot depth.

The minimum lot depth shall be measured along the shortest side lot line.

(Code 1981, § 21-5-22)

Sec. 38-58. Measurement of lot width.

The lot width shall be measured at the setback line.

(Code 1981, § 21-5-23)

Sec. 38-59. Exempted structures and uses.

The following structures and uses are exempted from the application of the district regulations and standards and are permitted in any district:

- (1) *Utility fixtures.* Poles, towers, wires, cables, conduits, vaults, laterals, pipe mains, valves or any other similar distributing equipment for telephone or other communications, electric power, gas, water and sewer lines, railroad right-of-way, water reservoir, provided that the installation shall conform where applicable with the rules and regulations of the state commerce commission, the Federal Aviation Administration and of other public authorities having jurisdiction.
 - (2) *Landfill.* Filling of holes, pits, low lands and gullies with noncombustible material other than refuse and food wastes. A permit is not required for clean soil, sand or gravel filling.
 - (3) *Golf courses.* Standard golf courses, provided that all buildings, structures and parking spaces appurtenant thereto conform to the setback lines and yard requirements of the district in which located, and further provided that if the fairways or greens or any part thereof are illuminated for night playing, it shall be located as a special use under the provisions of this chapter.
 - (4) *Libraries.* Libraries, provided that any buildings or parking spaces shall conform to the setback lines and yard requirements of the district in which located.
- (Code 1981, § 21-6-1)

Secs. 38-60—38-76. Reserved.**DIVISION 2. RESIDENTIAL DISTRICT****Sec. 38-77. Description.**

The R Residential District includes single-family dwellings, two-family dwellings and multifamily dwellings.

(Code 1981, § 21-7-1)

Sec. 38-78. Permitted uses.

Permitted uses in this district are:

- (1) Dwellings of the following types: single-family detached, single-family semi-detached, single-family attached, two-family attached, two-family detached, two-family semi-detached, multifamily, boardinghouses or lodginghouses, subject to section 38-79.
- (2) Conversions. Any structure within this district may be converted into one of the dwellings permitted in this district, provided all requirements for such dwellings are met.

- (3) Home occupations are permitted only in connection with the single and two-family dwellings permitted in this district. They shall be subject to the following regulations and standards:
 - a. No article shall be sold or offered for sale on the premises except such as is produced on the premises or is provided incidental to the service or profession conducted on the premises.
 - b. There shall be no exterior storage of materials or equipment.
 - c. There shall be no exterior indication of the home occupation other than signs and no variation from the residential character of the dwelling.
 - d. No heat, glare, noise, vibration, noxious or toxic fumes, odors, vapors, gases or matter shall be produced at any time by a home occupation which are readily detectable without the use of instruments at any point on the boundaries of the premises.
 - e. The emission of smoke as specified in section 38-110(1) shall not be exceeded.
 - f. Signs in connection with a home occupation shall:
 1. Not be illuminated;
 2. Not extend beyond lot lines;
 3. Not exceed two square feet in area, in total area per lot.
 - g. Except for members of the family living on the premises, there shall be no more than one employee.
 - (4) Accessory structures and uses customarily incidental to the main or principal structures permitted in the residential district are permitted in the residential district.
 - (5) Agriculture shall not be permitted within the residential district.
 - (6) Public, parochial or private schools offering instruction in one or more grades from kindergarten through 12th grade.
 - (7) Churches or similar places of worship, parish houses, Sunday schools.
 - (8) Public libraries, art galleries, public parks, playgrounds and community centers.
 - (9) Hospitals, nursing homes and doctors' clinics.
- (Code 1981, § 21-7-2; Ord. No. 668, 3-17-1998)

Sec. 38-79. Dwelling regulations and standards.

The following regulations and standards shall apply to all dwellings in the residential district:

- (1) *Occupancy.*
 - a. *Dwelling unit.* Residential occupancy per dwelling unit shall be limited to one family and not more than two roomers or boarders.

- b. *Lodging unit.* Residential occupancy per lodging unit shall be limited to one family.
- (2) *Location.* Dwellings shall be located so as to abut a minor street but may abut a major street only if access to and from such street is provided by a merging feeder system.
- (3) *Habitable floor area.* The minimum habitable floor area per dwelling unit and per lodging unit shall be as follows:
 - a. Single-family and two-family dwellings: 500 square feet per dwelling unit.
 - b. Multifamily dwellings: 300 square feet per dwelling unit.
 - c. Boardinghouses, lodginghouses: 300 square feet per dwelling unit, 150 square feet per lodging unit.
 - d. Dwelling units or lodging units in commercial buildings, when permitted: 300 square feet per dwelling unit, 150 square feet per lodging unit.
- (4) *Off-street parking space.*
 - a. The minimum required number of parking spaces shall be as follows:
 - 1. Single-family and two-family dwellings: two parking spaces per dwelling unit.
 - 2. Multifamily dwellings, boardinghouses, lodginghouses:
 - (i) One parking space per dwelling unit.
 - (ii) One parking space per lodging unit.
 - 3. Dwelling units or lodging units in commercial buildings, where permitted:
 - (i) One parking space per dwelling unit.
 - (ii) One parking space per lodging unit.
 - b. All such parking spaces shall be located on the same lot or tract of land as the dwelling or building served.
 - c. Such parking space for the accommodation of an automobile or light motor truck shall total at least 180 square feet, exclusive of maneuvering area.
 - d. Such parking space for the accommodation of a heavy motor truck, motor bus or other vehicle shall be of dimensions herein specified for an off-street loading berth.
 - e. Not more than one such space within a private garage or private carport shall be rented or leased to a nonresident of the premises.
- (5) *Lot area and density.*
 - a. *Minimum lot area.* Each zoning lot shall have an area of at least 9,000 square feet, a lot width of at least 75 feet and a lot depth of at least 100 feet.

- b. *Maximum density.* The number of dwelling units per lot shall not exceed the lot area in square feet divided by 2,250 square feet. Fractional dwelling units resulting from this computation shall not be counted or rounded upward to the next higher whole number.
- c. *Maximum coverage.* The amount of the total lot area which may be covered by all principal and accessory buildings shall not exceed 30 percent.
(Code 1981, § 21-7-3)

Sec. 38-80. Height.

Except as provided in sections 38-48 and 38-49:

- (1) No main or principal structure shall exceed 35 feet in height, except that multifamily dwellings shall be permitted to a height of six stories.
- (2) No detached accessory structure shall exceed 15 feet in height.
(Code 1981, § 21-7-4)

Sec. 38-81. Setback lines.

The following setback line regulations and standards shall apply to all main or principal structures and all detached accessory structures except such as permitted in yards, as provided in section 38-52(2):

- (1) When the lot abuts a highway as designated on the zoning map, the minimum setback line shall be 60 feet from the nearest right-of-way line.
- (2) When the lot abuts a major street as designated on the zoning map, the minimum setback line shall be 30 feet from the nearest right-of-way line or 60 feet from the centerline, whichever is greater.
- (3) When the lot abuts a minor street, the minimum setback line shall be 25 feet from the nearest right-of-way line or 50 feet from the centerline, whichever is greater.
- (4) When 25 percent or more of the lots within a block (such lots abutting streets other than highways) were occupied by main or principal structures prior to the effective date of the ordinance from which this section is derived, the average of the setback lines of such structures shall be the minimum setback line of the remaining vacant lots within such block, except when the public health, safety, comfort, morals or welfare are endangered.
- (5) When the lot abuts a stormwater or floodwater runoff channel or basin, the minimum setback line shall be 50 feet from the nearest shore or high-water line.
(Code 1981, § 21-7-5)

Sec. 38-82. Yards.

On every lot a front yard, a rear yard and two side yards are required, the dimensions of which shall be equal to or greater than the following:

- (1) Front yard depth: 25 feet, unless the building is constructed in an established block front, in which case the front yard depth shall be the average of the front yard depths of the two buildings, one on either side. When a lot is located at the intersection of two or more streets, there shall be a front yard on each street side of the lot. No accessory building shall project into the required front yard space.
- (2) Side yard width: ten feet. No accessory building shall project into the required side yard space.
- (3) Rear yard depth: 25 feet. Accessory buildings may be erected in a rear yard, provided they are located at least three feet from the rear or side lot lines, and provided further, that the maximum lot coverage is not exceeded.

(Code 1981, § 21-7-6)

Secs. 38-83—38-107. Reserved.**DIVISION 3. COMMERCIAL DISTRICT****Sec. 38-108. Description and purpose.**

The C Commercial District is designated either the entire village or a portion thereof by providing locations for commercial establishments which are generally more extensive in range of service than those permitted in the R Residential District.

(Code 1981, § 21-8-1)

Sec. 38-109. Permitted uses.

Permitted uses in the C Commercial District are:

- (1) Those uses permitted in the R Residential District, subject to the yard requirements of the R Residential District.
- (2) Retail stores and shops.
- (3) Banks; post office; medical or dental clinics; business or professional offices.
- (4) Service-type business, such as barbershop, beauty shop, laundromat, music, dancing, art or photography studio, servicing or repair of home appliance or farm equipment and similar uses.
- (5) Automobile service stations and public garages; new or used car sales area; new or used farm equipment sales area; but not including the storage of wrecked vehicles or farm equipment.
- (6) Hotel, motel, boarding or lodgings; dwelling units located on the same lot with a permitted use, or trailer coach parks.

- (7) Clubs, lodges, public meeting halls; theaters; bowling alleys, similar places of assembly or recreation.
 - (8) Customary accessory uses, located on the same or adjacent lot with a permitted use. Signs advertising a business, service or product available on the premises shall be permitted, provided the total area of such signs shall not exceed two times the linear feet of frontage of the zoning lot.
- (Code 1981, § 21-8-2)

Sec. 38-110. Performance standards.

The following performance standards shall apply in the C Commercial District:

- (1) *Smoke and particulate matter.* No commercial establishment shall be allowed which produces emission of smoke of more than five units per stack; however, during one hour period in each 24 hours, each stack may emit up to ten smoke units per hour when blowing soot or cleaning fires with no more than six minutes of smoke of density of Ringelmann Number 2.
- (2) *Vibrations, heat or glare.* No commercial establishment shall be allowed which produces vibrations, heat or glare readily detectable by normal human senses without the use of instrument at the lot lines of each establishment.
- (3) *Toxic or noxious matter, odors, vapors or gases.* No use shall discharge across the lot lines wherein it is located, toxic or noxious matter, odors, vapors or gases in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
- (4) *Flammable or explosive hazards.*
 - a. The use of solid materials or products ranging from incombustible to moderate burning is permitted.
 - b. The storage and use of solid materials or products ranging from free or active burning to intense burning is permitted, provided the materials or products shall be stored and used within completely enclosed buildings having incombustible exterior walls and protected throughout by an effective automatic fire extinguishing system.
 - c. The storage and use of flammable liquids or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the following table, exclusive of storage of finished products in original sealed containers, which is unrestricted.

Total Capacity of Flammable Materials Permitted (in Gallons)

	<i>Above Ground</i>	<i>Underground</i>
Materials having a closed cup flash point over 187° F	275	100,000
From and including 105° F to and including 187° F	55	40,000
Materials having a closed cup flash point of less than 105° F	5	20,000

When flammable gases are used and measured in cubic feet, the quantity in cubic feet (at standard temperature and pressure) permitted shall not exceed 300 times the quantities as listed above when the factor 300 is the volume in cubic feet occupied by one gallon of most liquids.

- (5) *Fissionable or radioactive materials.* All handling or use of fissionable or radioactive materials shall conform to standards established by the U.S. Atomic Energy Commission.

(Code 1981, § 21-8-3)

Sec. 38-111. Location of commercial establishments.

Each commercial establishment shall be located so as to abut a minor street, but may abut a major street only if access to and from such street is provided by a merging feeder system.
(Code 1981, § 21-8-4)

Sec. 38-112. Signs.

- (a) No part of roof-mounted signs shall be higher than 50 feet above average curb level.
- (b) The gross area of signs per establishment shall not exceed three times the linear feet of the frontage of the establishment on which such signs are located.
- (c) No sign affixed to a structure shall project more than three feet beyond the limits of such structure and shall not project across lot lines.
(Code 1981, § 21-8-5)

Sec. 38-113. Off-street parking spaces.

- (a) Off-street parking spaces for commercial establishments shall be provided as follows:
- (1) All such parking spaces shall be located on the same lot or tract of land as the establishment served.
 - (2) The number of such parking spaces shall be the sum of the individual requirements of the various individual establishments computed separately in accordance with this section. Such parking spaces for one such establishment shall not be considered as providing the number of such parking spaces for any other establishment.

- (3) Such parking space for the accommodation of an automobile or a light motor truck shall total at least 300 square feet, including both parking and maneuvering area.
- (4) Such parking space for the accommodation of a heavy motor truck, motor bus or other shall be of dimensions herein specified for an off-street loading berth.
- (5) No such parking spaces shall be located less than 20 feet from any front curbline or ten feet from any sidewalk.
- (6) No such parking spaces shall be located less than five feet from any side or rear lot line.

(b) Schedule of off-street spaces:

Hotel, motel, tourist home, private club and all other similar places offering overnight accommodations	1 parking space for the owner or manager, plus 1 parking space for each accommodation
Places of public assembly, including private clubs, lodges, fraternal organizations not providing overnight accommodations, assembly halls, exhibition halls, town halls, convention halls, auditoriums, skating rinks, dance halls, bowling alleys, athletic fields, sports arenas, stadiums, gymnasiums, amusement parks, race tracks, fairgrounds, community buildings, public administration buildings and other similar places of relatively infrequent public assembly	1 parking space for each 5 seats provided for patrons' use, or at least 1 parking space for each 200 square feet of floor area used for or intended to be used for service to the public as customers, patrons or clients, whichever requires the greater number of parking spaces
Retail establishments for the sale of food or beverages to be consumed on the premises	1 parking space for every 100 square feet of floor area or portion thereof
Retail establishments other than specified above; banks, business, financial and professional buildings	1 parking space for every 200 square feet of floor area or portion thereof
Mortuaries, undertaking and funeral parlors	1 parking space for each 5 seats or portion thereof in the chapel or parlor, plus 1 parking space for each vehicle maintained on the premises
Animal hospitals, clinics and offices of physicians	1 parking space for each employee, plus 3 parking spaces for each staff or visiting physician

(Code 1981, § 21-8-6)

Sec. 38-114. Off-street loading berths.

- (a) Off-street loading berths for commercial establishments shall be provided as follows:
- (1) All such berths shall be located on the same lot or tract of land as the establishments served, except when serving adjacent establishments when the loading berth requirement is sufficient to serve both establishments.
 - (2) No such berth shall be located less than 50 feet from the building restriction line of a dwelling or residential building unless such berth is screened from public view by a fence, wall or hedge at least 75 percent solid and at least six feet in height.
 - (3) No such berth shall be located within 50 feet from the nearest point of intersection of two streets.
 - (4) All such berths shall be designed with means of vehicular access to a street or alley which will least interfere with traffic movement.
 - (5) All such berths shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - (6) All such berths shall have a vertical clearance of at least 14 feet.
 - (7) No vehicle repair or service work shall be performed on any such berth.
 - (8) No such berth shall be located less than ten feet from any front lot line.
 - (9) No such berth shall be located less than five feet from side or rear lot lines.
- (b) Schedule of off-street loading berths:

<i>Floor Area of Establishment in Square Feet</i>	<i>Minimum Required Number and Size of Loading Berths</i>
1—9,999	1 (12 × 40 feet)
10,000—24,999	2 (10 × 40 feet)
25,000—39,999	2 (10 × 70 feet)
40,000—99,999	3 (10 × 70 feet)
100,000—249,999	4 (10 × 70 feet)

For each additional 200,000 square feet or portion thereof of floor area, one additional berth shall be provided to be at least ten by 70 feet in dimension.

(Code 1981, § 21-8-7)

Sec. 38-115. Buffer strip.

When a lot on which a commercial establishment shall be located abuts or adjoins any other district except an industrial district, a buffer strip of not less than 30 feet in width shall be provided and:

- (1) Shall be located on such lot on the side of such lot abutting any other district;
- (2) Shall be parallel to the lot lines of such lot facing any other district;

- (3) Shall be maintained with a screen planting at least six feet in height, except where such buffer strip parallels the front lot line of such lot, in which case such screen planting shall not be required;
 - (4) Shall not be used for parking, loading or unloading;
 - (5) Shall not be included in any side or rear yard dimension;
 - (6) May coincide with the front 30 feet of the front yard; and
 - (7) May be crossed by sidewalks, easements, access ways and service drives not more than 35 feet in width.
- (Code 1981, § 21-8-8)

Sec. 38-116. Floor area ratio.

The following regulations and standards shall apply when computing the floor area ratio of a commercial building:

- (1) Cellars may be excluded from such computations.
 - (2) When the front or side lot line of a commercial lot abuts or adjoins a public open property of at least five acres in area and of a depth perpendicular to such front or side lot line of at least 200 feet, the maximum floor area ratio may be increased by 15 percent.
 - (3) The minimum floor area ratios as herein specified shall not apply to outdoor commercial recreational uses nor to commercial parking lots.
 - (4) For a commercial building, the minimum floor area ratio shall be 0.2, and the maximum floor area ratio shall be 1.2, except as modified by subsection (2) of this section.
- (Code 1981, § 21-8-9)

Sec. 38-117. Height.

Except as provided in section 38-48:

- (1) No main or principal structure shall exceed 35 feet in height.
 - (2) No detached accessory structure shall exceed 15 feet in height.
- (Code 1981, § 21-8-10)

Sec. 38-118. Yards.

On every lot in the C Commercial District, yards shall be required as follows:

- (1) Front yard: None required, except that gasoline pumps or similar fuel-dispensing equipment shall be at least ten feet from the front property line.
- (2) Side yards: None required.

(3) Rear yard: One required, at least 20 feet in depth.
(Code 1981, § 21-8-11)

Secs. 38-119—38-149. Reserved.

DIVISION 4. INDUSTRIAL DISTRICT

Sec. 38-150. Description.

The I Industrial District embraces all types of industrial uses, including both light and heavy industry and related operations.
(Code 1981, § 21-9-1)

Sec. 38-151. Permitted uses.

Permitted uses in the I Industrial District are:

- (1) Those uses permitted in the R Residential and C Commercial Districts, subject to the standards and regulations applicable to those districts.
- (2) Grain storage; feed mills; fertilizer storage and processing.
- (3) Wholesale, storage and warehouse facilities, except those specifically prohibited.
- (4) Railroad yards, siding and switching facilities; public utilities.
- (5) Fuel storage, building material storage yard or similar storage yards, but not including salvage or junkyards.
- (6) Trailer coach parks.
- (7) The manufacture or processing of goods or products.
- (8) Customary accessory uses.
- (9) Signs, provided that the gross area of signs shall not exceed six times the linear feet of frontage of the lot on which such signs are located.
- (10) Sanitary landfills.

(Code 1981, § 21-9-2; Ord. No. 668, 3-17-1998)

Sec. 38-152. Signs.

The following regulations as to signs shall apply in the I Industrial District:

- (1) The top of roof-mounted signs shall not be higher than 25 feet from roof level.
- (2) The gross area of signs per lot shall not exceed six times the linear feet of frontage of the lot on which such signs are located.
- (3) No sign affixed to a structure shall project more than five feet beyond the limits of such structure and shall not project across lot lines.

(Code 1981, § 21-9-3)

Sec. 38-153. Buffer strip.

When a lot on which an industrial use shall be located abuts or adjoins any other zoning district, a buffer strip of not less than 40 feet in width shall be provided and:

- (1) Shall be located on such lot on the side thereof abutting the zoning district boundary;
- (2) Shall be parallel to the lot line of such lot facing the other zoning district;
- (3) Shall be maintained with a screen planting at least six feet in height, except where such buffer strip parallels the front lot line of such lot, in which case such screen planting shall not be required;
- (4) Shall not be used for parking, loading or unloading;
- (5) Shall not be included in any side or rear yard dimension;
- (6) May coincide with the front 40 feet of the front yard; and
- (7) May be crossed by sidewalks, easements, access ways and service drives not more than 35 feet in width.

(Code 1981, § 21-9-4)

Sec. 38-154. Off-street parking spaces.

Off-street parking spaces for industrial uses shall be provided as follows:

- (1) One such space shall be provided for each three employees, based upon the maximum number of persons employed during one work period during the day or night, plus one such space for each vehicle used in the conduct of such use.
- (2) Such space for the accommodation of an automobile or light motor truck shall total at least 300 square feet, including both parking and maneuvering areas.
- (3) Such space for the accommodation of a heavy motor truck, motorbus or other vehicle shall be of dimensions herein specified for an off-street loading berth.
- (4) All such spaces shall be surfaced with all-weather dustless material.
- (5) No such space shall be located less than 20 feet from any front curbline or ten feet from a sidewalk.
- (6) No such space shall be located less than five feet from any side or rear lot line.

(Code 1981, § 21-9-5)

Sec. 38-155. Off-street loading berths.

(a) Off-street loading berths for industrial uses shall be provided as follows:

- (1) *Location.* All such berths shall be located on the same lot as the industrial use served.

- (2) *Distance from building restriction line.* No such berth shall be located less than 100 feet from the building restriction line of a dwelling or residential building unless such is screened from public view by a fence, wall or hedge at least 75 percent solid and at least six feet in height.
 - (3) *Distance from intersections.* No such berth shall be located less than 50 feet from the nearest point of intersection of two streets.
 - (4) *Base.* All such berths shall be improved with a compacted base at least seven inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - (5) *Street access.* All such berths shall be designed with means of vehicular access to a street or alley which will least interfere with traffic movement.
 - (6) *Vertical clearance.* All such berths shall have a vertical clearance of at least 14 feet.
 - (7) *Repair or service work prohibited.* No vehicle repair or service work shall be performed on any such berth.
 - (8) *Distance from lot lines.* No such berth shall be located less than ten feet from any front lot line nor less than five feet from any side or rear lot line.
- (b) Schedule of off-street loading berths. The following is the schedule of off-street loading berths:

<i>Floor Area of Building in Square Feet</i>	<i>Minimum Required Number and Size of Loading Berth</i>
1,000—9,999	1 (12 × 40 feet)
10,000—24,999	2 (10 × 40 feet)
25,000—39,999	2 (10 × 70 feet)
40,000—99,999	3 (10 × 70 feet)
100,000—249,999	4 (10 × 70 feet)

For each additional 200,000 square feet or portion thereof of floor area, one additional such berth shall be provided to be at least ten by 70 feet in dimension.

(Code 1981, § 21-9-6)

Secs. 38-156—38-178. Reserved.

DIVISION 5. AGRICULTURAL DISTRICT

Sec. 38-179. Description.

The A Agricultural District embraces the types of agricultural uses in section 38-180.
(Code 1981, § 21-9A-1; Ord. No. 668, 3-17-1998)

Sec. 38-180. Permitted uses.

Permitted uses in the A Agricultural District are:

- (1) Apiaries, subject to the requirements of section 38-181.
 - (2) Aviaries.
 - (3) Growing of crops; raising of sheep only and specifically excluding the raising of other livestock or the raising of hogs, nor the assembly of hogs or other animals for further transmittal to market, nor the disposal or feeding of garbage, nor any confinement feeding operation; subject to the requirements of section 38-181.
 - (4) Gardening, including truck farming, subject to the requirements of section 38-181.
 - (5) Greenhouses.
 - (6) Nurseries, subject to the requirements of section 38-181.
 - (7) Orchards, subject to the requirements of section 38-181.
 - (8) Roadside stands for the sale of only those farm products produced on the premises on which the stand is located, provided that a parking area for not less than six customers' vehicles shall be provided on the private property within the parking area, and access drives shall be surfaced with compact crushed stone or superior surfacing.
 - (9) One-family detached dwellings.
 - (10) Uses similar or accessory to the permitted uses in subsections (1) through (9) of this section.
- (Code 1981, § 21-9A-2; Ord. No. 668, 3-17-1998)

Sec. 38-181. Special setbacks and buffer zones for certain permitted uses and prohibitions.

The following setbacks or prohibitions and buffer zones shall be observed for a specified use established or relocated:

- (1) Apiaries shall be at least 100 feet from any property line.
- (2) No aerial spraying of crops shall be allowed within the village limits.
- (3) When sheep are being raised, there shall be a buffer zone of at least 30 feet between such area and adjoining R Residential Districts with exception of those instances when the adjoining R Residential District is owned by the same person or entity raising the sheep. Such buffer zone shall at a minimum be 30 feet of open space with grass not higher than eight inches at any time, and the buffer may include within the buffer zone berms, driveways or shrubbery and shall not be used for any other agricultural activity. Fences may be allowed within the buffer zone upon application for a building permit and subject to the provisions of section 38-52.

(4) When crops are grown, no buffer zone shall be required.
(Code 1981, § 21-9A-3; Ord. No. 668, 3-17-1998)

Sec. 38-182. Electric fences.

Electric fences shall be permitted in A Agricultural Districts without permits at those points when the sheep-raising activity abuts the buffer zone. The voltage used in any such electric fence shall not exceed 3,000 volts.
(Code 1981, § 21-9A-4; Ord. No. 668, 3-17-1998)

Secs. 38-183—38-202. Reserved.

ARTICLE III. SOLAR ENERGY

Sec. 38-203. Purpose of article.

The purpose of this article is to provide a uniform and comprehensive set of standards for the installation and use of personal solar energy systems. The intent of these regulations is to protect the public health, safety, and community welfare without unduly restricting the development of solar energy systems.
(Ord. No. 860, exh. A(21-18-1), 7-7-2020)

Sec. 38-204. Encouragement of solar energy.

The village encourages the installation and use of personal solar energy which does not compromise the aesthetics of the properties within the village and protects the safety and property values of the village's residents and businesses.
(Ord. No. 860, exh. A(21-18-2), 7-7-2020)

Sec. 38-205. Definitions and rules of construction.

The definitions and rules of construction set forth in section 38-3 shall control except as specifically set forth in this article. In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Personal solar energy system (PSES) means solar energy systems designed for on-site home, farm, and commercial use that are used primarily to reduce on-site consumption of utility power.

Qualified solar energy installer means a trained and qualified electrical professional who has the skills and knowledge related to the construction and operation of solar electrical equipment and installations and has received safety training on the hazards involved and has a distributed generation certification.

Solar energy building permit means a permit issued by the village pursuant this article.

Solar farm energy systems means solar energy systems with the primary purpose of generating and selling generated electricity at wholesale or retail.

Subdivision code means chapter 30 and any generally applicable restrictive covenants or restrictions previously adopted by a subdivision within the village and enforced by deed restrictions or a homeowner's association.

(Ord. No. 860, exh. A(21-18-3), 7-7-2020)

Sec. 38-206. Requirement of a solar energy building permit.

No PSES shall be installed, modified, maintained, or allowed to exist within the village unless the landowner obtains a solar energy building permit prior to installation or modification. Except as provided in this article, a solar energy system previously installed and existing as of the date of adoption of the ordinance from which this article is derived may continue in its preexisting state, but shall not be further modified unless a solar energy building permit is first issued.

- (1) Application for a solar energy building permit shall be made on a village-provided form.
 - (2) The application shall include detailed plans of the proposed installation, including the location/address of the proposed installation, the identity of the occupant of the premises and the legal property owner, if different, whether a roof mount or ground mount installation is proposed, the name, type, and brand of solar energy system to be installed, the number of solar panels to be installed and the size of those panels. A detailed drawing shall be submitted showing the entire property, the proposed area of installation, measurements from lot lines, heights of proposed installation, any foundation or footers required to be dug and details regarding such digging.
 - (3) The application shall be submitted to the clerk along with a nonrefundable application fee as established by the village fee schedule for zero kilowatts to 20 kilowatts and as established by the village fee schedule for 21 kilowatts and above.
- (Ord. No. 860, exh. A(21-18-4), 7-7-2020)

Sec. 38-207. Prohibited solar energy systems.

The following solar energy systems shall not be allowed to exist within the village:

- (1) A solar farm energy system.
- (2) A solar energy system which is installed, maintained, modified, or allowed by the landowner to exist in a manner that is dangerous to persons, property, including the landowner's and adjacent properties, or which presents an attractive nuisance reasonably anticipated to attract children or animals in such a way that it presents a risk of physical injury to such children or animals.
- (3) A solar energy system within a subdivision which violates an applicable subdivision code.

- (4) A solar energy system which violates section 38-208.
(Ord. No. 860, exh. A(21-18-5), 7-7-2020)

Sec. 38-208. Installation restrictions.

The following restrictions shall apply to all PSES installations. A solar energy building permit shall not be issued when the submitted plans disclose a proposed violation of this section.

- (1) All installations shall be either roof mount or ground mount.
- (2) Ground mount installations will be allowed in rear yards only and restricted to a height (measured from the highest point of the installed panel) of no more than 12 feet height measured from the ground floor level of the existing home.
- (3) Roof mount installations shall not project higher than the peak of the roof and shall not extend beyond the side of the home, not inclusive of any overhang.
- (4) Installations shall be by qualified solar energy installers. No property owner shall personally install a PSES unless she/he is, or is assisted and supervised by, a qualified solar energy installer who shall be responsible for the installation's compliance with this article. A PSES shall not be operated unless first approved by the applicable electrical power company.
- (5) Installations shall comply with setbacks defined in this Code.
(Ord. No. 860, exh. A(21-18-6), 7-7-2020)

Sec. 38-209. Maintenance of PSES.

All PSES within the village shall be maintained in good working order, safe for its intended use. When the equipment is no longer being used, or has outlived its usefulness, it shall be removed from the property at the owner's expense, and disposed of in a proper manner. A PSES shall not be installed, maintained or modified, and a solar energy building permit shall not be issued when the submitted plans disclose a proposed installation which substantially compromises or damages the aesthetics of the surrounding properties, or interferes with the peace and quiet enjoyment of surrounding properties.
(Ord. No. 860, exh. A(21-18-7), 7-7-2020)

Sec. 38-210. Penalties and remedies.

Penalties for violation of any provision of this chapter shall be as provided in section 1-19. A separate offense shall be deemed committed on each day a violation occurs or continues. When appropriate, the village may also seek declaratory and injunctive relief in a court of competent jurisdiction to eliminate a violation which presents substantial risk of personal injury to persons or abate the violation as a nuisance.
(Ord. No. 860, exh. A(21-18-8), 7-7-2020)

Secs. 38-211—38-228. Reserved.

ARTICLE IV. TRAILERS**Sec. 38-229. License required.**

It is unlawful to establish, maintain or operate any trailer coach park in the village without first having obtained a zoning permit therefor. Application for such zoning permit shall be made in writing to the clerk, stating the name and address of the applicant, and the name and address of the owner or manager of the camp, the location of the tract of land upon which it is proposed to operate and maintain a trailer coach park, the proposed and existing facilities in the trailer coach park for water supply, sewage, garbage and waste disposal, the proposed method of lighting the structures and land upon which the trailer coach park is to be located, the calendar months of the year which the applicant will operate the trailer coach park, the plot plans of the trailer coach park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities, or the proposed alterations in existing facilities; and the maximum number of trailers the trailer coach park will accommodate. An affidavit of the applicant as to the truth of the matters contained in the application shall be attached thereto.

(Code 1981, § 21-10-1)

Sec. 38-230. Plan.

Each application shall be accompanied by a plat or sketch showing the size and location of all buildings and structures, and all items required to be set out in the application, including the proposed or existing locations of all buildings, toilet, bath and wash basin facilities, water faucets, sewer connections, driveways, and other improvements.

(Code 1981, § 21-10-2)

Sec. 38-231. Supervision.

Each trailer coach park, while operated, shall be in the charge of a responsible attendant or caretaker at all times, who shall be responsible, with the licensee, for compliance with the provisions of this article relating to the conduct of such parks.

(Code 1981, § 21-10-3)

Sec. 38-232. Spaces.

Each trailer coach shall be allotted a site of not less than 1,000 square feet. No trailer coach shall be parked closer than five feet to the side lot lines of a trailer coach park, if the abutting property is improved property, or closer than ten feet to a public street, alley or building. Each individual trailer site shall abut or face on a driveway or clear, unoccupied space of not less than 20 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten feet between the sides of every trailer coach, and at least five feet between the ends of every trailer coach.

(Code 1981, § 21-10-4)

Sec. 38-233. Water supply.

An adequate supply of pure water for drinking and domestic purposes from the village water supply system shall be supplied to meet the requirements of the trailer coach park. The water shall be obtained from faucets only, conveniently located in the park. No common drinking cups shall be permitted. A water meter shall be installed in each such park.
(Code 1981, § 21-10-5)

Sec. 38-234. Sanitary facilities.

Each trailer coach park shall provide toilets, baths or showers, which shall comply with provisions of village ordinances relating thereto, with separate accommodations for men and women. It is unlawful to permit any wastewater or material from toilets, showers, bathtubs, washbasins, or other plumbing fixtures in the trailer coach park, or trailer, to be deposited upon the surface of the ground, and all such fixtures, when in use, must be connected to the village sewer system by means of rigid pipe. Hose connections are not permitted.
(Code 1981, § 21-10-6)

Sec. 38-235. Garbage.

It shall be the duty of the owner, his agent or caretaker, to provide for the collection and removal of garbage or other waste material and to otherwise maintain the park in a clean and sanitary condition.
(Code 1981, § 21-10-7)

Sec. 38-236. Lights.

The parks shall be kept properly and adequately lighted at all times so that the grounds shall be safe for occupants and visitors.
(Code 1981, § 21-10-8)

Sec. 38-237. Exceptions.

Nothing in this article shall be construed to prohibit the storage of any trailer coach for any length of time, when the trailer coach is not used for living or sleeping purposes.
(Code 1981, § 21-10-9)

Secs. 38-238—38-267. Reserved.**ARTICLE V. NONCONFORMITIES****Sec. 38-268. Description.**

Within the districts established by this chapter, or by amendments that may later be adopted, there may exist lots, premises, structures and uses which were lawful before adoption of the ordinance from which this chapter is derived, or any amendment thereto, was

effective, but which would be prohibited, regulated or restricted under the provisions of this chapter or future amendments. These are commonly known as nonconforming uses, structures, etc., and are herein referred to under the general term "nonconformities." (Code 1981, § 21-11-1)

Sec. 38-269. Statement of intent.

Under the law, nonconformities are permitted to be continued, subject to certain conditions and restrictions. It is the intent of this chapter to permit these nonconformities to continue until they are removed (except as otherwise herein provided), but not to encourage their survival. Such nonconformities are declared by this chapter to be incompatible with the permitted structures and uses of land and structures in the districts involved. It is further the intent of this chapter that such nonconformities shall not be enlarged upon, expanded or extended except as provided for herein, nor to be used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Code 1981, § 21-11-2)

Sec. 38-270. Enlargement, expansion, extension not permitted.

A nonconforming use of land, premises or structure shall not be enlarged upon, expanded or extended after the effective date of the ordinance from which this section is derived by the attachment of a structure, premises or land, of additional signs intended to be seen off the premises or land, or by the addition of other uses of a nature which would be prohibited in the district involved. (Code 1981, § 21-11-3)

Sec. 38-271. When rights of conforming use or structure granted.

A nonconforming use or a nonconforming structure which is nonconforming only because of failure to provide required off-street parking spaces, loading berths or setbacks shall have all the right of a conforming use or structure. (Code 1981, § 21-11-4)

Sec. 38-272. Nonconforming lots of record.

(a) In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory building may be erected on any lot which is a lot of record on the effective date of the ordinance from which this section is derived. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations hereinafter provided.

(b) Yard regulations and standards for single nonconforming lots of record.

- (1) *Front yard.* The front yard regulations and standards of the district in which such lot is located shall apply.
- (2) *Rear yard.* The rear yard regulations and standards of the district in which such lot is located shall apply.
- (3) *Side yard.*
 - a. On such lot with a width of 50 feet or more, two side yards shall be provided as required by the regulations and standards of the district in which such lot is located.
 - b. On such lot less than 50 feet but not less than 27 feet in width, two side yards shall be provided, each equaling ten percent of the lot width.
 - c. On such lot less than 27 feet but not less than 20 feet in width, the structure located on such lot shall have a width of not more than 90 percent of such lot width. Only one side yard need be provided, equaling in with the difference between the lot width and the maximum permitted width of the structure. No other side yard need be provided.
 - d. The wall of any building facing the side of the lot on which no side yard is required shall be without openings and shall not be constructed as a common wall.

(Code 1981, § 21-11-5)

Sec. 38-273. Nonconforming uses of land.

When, on the effective date of adoption or amendment of the ordinance from which this section is derived, a lawful use of land exists that is no longer permissible under the regulations and standards of this chapter as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming use of land shall be enlarged, increased or extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of the ordinance from which this section is derived.
- (2) No such nonconforming use of land shall be moved in whole or in part to any other portion of the lot or tract of land occupied on the effective date of adoption or amendment of the ordinance from which this section is derived.
- (3) If any such nonconforming use of land ceases for any reason for a period of more than 30 consecutive days, any subsequent use of such land shall conform to the regulations and standards set by this chapter for the district in which such land is located.

(Code 1981, § 21-11-6)

Sec. 38-274. Nonconforming structures.

When, on the effective date of adoption or amendment to the ordinance from which this section is derived, a lawful structure exists that could not be built under the regulations and standards of this chapter as adopted or amended, by reasons of restrictions on lot area, lot coverage, floor area ratio, height, yards, spacing between buildings or other characteristics of the structure or its location on the lot; such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such structure may be enlarged or altered in a way which increases its nonconformity.
- (2) Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- (3) Should any such structure be moved for any reason for any distance whatever, it shall conform to the regulations and standards for the district in which it is located after it is moved.

(Code 1981, § 21-11-7)

Sec. 38-275. Nonconforming trailer coaches.

When, on the effective date of adoption or amendment of the ordinance from which this section is derived, a lawful trailer coach exists on a residential lot which could not exist there under the regulations and standards of this chapter as adopted or amended, such trailer coach may continue to exist on such a lot as long as it remains lawful, subject to the following provisions:

- (1) Such nonconforming trailer coaches must be removed on the sale, lease, bequest, devise, inheritance or legacy of the property.
- (2) Should such trailer coach be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of its destruction, it shall not be replaced except in conformity with the provisions of this chapter.

(Code 1981, § 21-11-8)

Sec. 38-276. Nonconforming uses of structures.

When, on the effective date of adoption or amendment of the ordinance from which this section is derived, a lawful use of a structure or of a premises exists that is no longer permissible under the regulations and standards of this chapter as adopted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or altered except in changing the use of such structure to a use permitted in the district in which it is located.

- (2) Any nonconforming use may be extended throughout any parts of the building or structure which were manifestly arranged or designed for such use at the effective date of adoption or amendment of the ordinance from which this section is derived, but no such use shall be extended to occupy land outside of such structure.
 - (3) If no structural alterations are made, any nonconforming use of a structure or of any premises may be changed to another nonconforming use, provided that the zoning board, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the zoning board may require appropriate conditions and safeguards in accord with the provisions of this chapter.
 - (4) Any structure, or any premises, in or on which a nonconforming use is superseded by a permitted use, shall conform to the regulations and standards of the district in which such structure or premises is located, and the nonconforming use shall not be resumed.
 - (5) When a nonconforming use of a building or structure, or of a premises, is discontinued or abandoned by six consecutive months or for 18 months during any three-year period, the structure or the premises shall not be used except in conformance with the regulations and standards of the district in which it is located.
 - (6) When nonconforming use status is applied to a premises, removal or destruction of the structure shall eliminate the nonconforming use status of the land, except as it may qualify as a nonconforming lot of record.
- (Code 1981, § 21-11-9)

Sec. 38-277. Nonconforming signs.

When, on the effective date of adoption or amendment of the ordinance from which this section is derived, a lawful sign exists that could not be located under the regulations and standards of this chapter as adopted or amended, by reasons of restrictions on location, sign area, height or other characteristics, such sign may be continued so long as it remains otherwise lawful, subject, however, to the following limitations and provisions:

- (1) No such sign may be enlarged or altered which increases its nonconformity, but the substitution or interchange of poster panels or painted boards shall be permitted.
 - (2) Should such sign be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
 - (3) Should such sign be moved for any reason for any distance whatever, it shall conform to the regulations and standards for the district in which it is located after it is moved.
- (Code 1981, § 21-11-10)

Sec. 38-278. Repairs and maintenance.

On any structure devoted in whole or in part to any nonconforming use, or which itself is nonconforming, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not to exceed ten percent of then-current replacement value of the structure; provided that the volume of such building or the size of such structure as it existed at the effective date of adoption or amendment of the ordinance from which this section is derived shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
(Code 1981, § 21-11-11)

Secs. 38-279—38-304. Reserved.

ARTICLE VI. SPECIAL USES

DIVISION 1. GENERALLY

Sec. 38-305. Description and purpose.

A special use is a use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established herein. It is declared the policy and purpose of this chapter to employ the special use as a flexible means of permitting certain exceptions to the districts established and the rules and regulations adopted herein, in cases when the public benefit of such uses outweighs the potential harm, and under such conditions imposed as are necessary to protect the public health, safety and welfare and individual property rights.
(Code 1981, § 21-12-1)

Sec. 38-306. Authorizing special use permits.

Special use permits may be granted by the village board by ordinance, in a specific case and after a public hearing before the zoning board in accordance with the procedure hereinafter set forth when it appears:

- (1) It is reasonably necessary for the public convenience at that location;
- (2) It is so designed, located and proposed as to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public welfare;
- (3) It conforms to the applicable regulations and standards of and preserves the essential character of the district in which it shall be located;

- (4) In the case of an existing nonconforming use, will make such use more compatible with its surroundings.

(Code 1981, § 21-12-2)

Sec. 38-307. Schedule of special uses.

Special uses which may be authorized by the village board are as follows:

- (1) Auditoriums in residential and industrial districts.
- (2) Cemeteries in residential districts.
- (3) Churches, synagogues, cathedrals, mosques and places of public worship; convents, monasteries and rectories in all districts except the industrial district.
- (4) Clubs, private clubs, private lodges and country clubs in the residential and commercial districts.
- (5) Commercial establishments in the residential districts supplying the everyday needs and services of the residents of the surrounding area, subject to the regulations specified in section 38-337.
- (6) Electric substations, filtration plants, pumping stations, telephone exchanges, police stations, fire stations and governmental administration buildings in all districts.
- (7) Fairgrounds, circuses, coliseums, racetracks and expositions in the industrial and commercial districts.
- (8) Golf courses (par 3) or standard golf courses with illuminated fairways or greens in the commercial and industrial districts.
- (9) Hospitals, nursing or convalescent homes, and sanatoriums in the residential and commercial districts.
- (10) Institutions for aged persons and children in all districts except the industrial and commercial districts.
- (11) Junkyards in the industrial district, provided they shall be enclosed on all sides by a solid fence, wall or hedge at least eight feet in height.
- (12) Motorbus passenger terminals in the commercial districts.
- (13) Philanthropic and eleemosynary institutions in the residential and commercial districts.
- (14) Radio and television broadcasting stations in all districts.
- (15) Schools (secondary or college) in any district.
- (16) Sewage treatment plants in the industrial and commercial districts.
- (17) Theaters and outdoor drive-ins in the industrial and commercial districts.
- (18) Public swimming pools or swimming areas in the commercial district.

- (19) Ministorage in the commercial district, provided storage shall be only for personal property and not items stored for resale, and further provided that such storage, including automobiles, trucks and recreational vehicles of any kind, shall be in an enclosed building.

(Code 1981, § 21-12-3; Ord. No. 680, 6-15-1999)

Sec. 38-308. Applicability of district regulations.

In addition to any special conditions or restrictions prescribed by the village board, the yard setback line regulations and standards of the district in which the special use is located shall apply.

(Code 1981, § 21-12-4)

Sec. 38-309. Zero lot line regulations.

(a) *Purpose.* The purposes of the provisions herein governing zero lot line development are:

- (1) To allow the development of single-family semi-detached housing that makes more efficient use of land and provides more usable open space on the lot, especially where lots are smaller.
- (2) To ensure that the design of each housing development provides a suitable environment both for its occupants and the neighborhood.
- (3) To thereby encourage the provision of higher density affordable housing that is semi-detached, that tends to be owner-occupied, and that is thereby more compatible with existing residential areas in the village.

(b) *Applicability.*

- (1) Zero lot line development of single-family semi-detached homes may be permitted as a special use in the zoning districts specified in this section.
- (2) When permitted, zero lot line development allows the width of a side yard to be reduced to zero for the purpose of creating more usable open space on the remainder of a lot, particularly where lot areas are small.
- (3) Zero lot line development shall be permitted only as part of an overall subdivision or planned unit development and not on isolated individual building lots.

(c) *General provisions.*

- (1) *Regulations and standards.* The regulations and standards applicable to residential districts are applicable to zero lot line developments unless specifically provided for in this section.
- (2) *Side yards only.* Only side yards may be reduced to zero. No front or rear yard may be reduced to zero.

- (3) *Minimum development area.* Each zero lot line development shall have a minimum development area of three acres.
- (4) *Minimum lot area.* Each zero lot line development shall have a minimum lot area of 37,500 square feet.
- (5) *Minimum lot width.* Each zero lot line development shall have a minimum lot width of 37.5 feet.
- (6) *Maximum density.* No lot can have more than one side yard with zero setback.
- (7) *Maximum coverage.* The amount of the total lot area which may be covered by all of the principal and accessory buildings shall not exceed 45 percent.
- (8) *Height.* No main or principal structure shall exceed 35 feet or 2½ stories.
- (9) *Yards.*
 - a. Front yard depth shall be no less than 25 feet from the nearest right-of-way line. No accessory building shall project into the required front yard space.
 - b. Side yard width shall be no less than eight feet. No accessory building shall project into the required side yard space.
 - c. Rear yard depth shall be no less than 25 feet from the rear property line.
- (10) *Wall maintenance easement.*
 - a. A perpetual wall maintenance easement shall be provided in every yard that is adjacent to a zero side yard in an adjoining lot.
 - b. The easement shall be four feet in width measured from that portion of the lot line that is adjacent to a building on the other lot.
 - c. The easement shall be shown on the plat and incorporated into each deed transferring title to the property. Proof of recording of such easement shall be submitted to the zoning administrator prior to issuance of a building permit.
 - d. Obstructions otherwise permitted in interior side yards are allowed within the easement, provided they do not impede access to the wall on the adjacent lot for painting, cleaning, maintenance and repair.
 - e. All zero lot line developments shall require a party wall agreement relating, at minimum, to the maintenance of the structure, maintenance of the open and common space, and exterior decoration, including, but not limited to, coordinating the replacement and repair of the exterior elements of their respective homes and a procedure for repair, maintenance and restoration for each of the residences and adjoining grounds.
- (11) *Wall openings.* No windows, doors, air conditioning units, or other openings shall be permitted on the side of a building abutting a zero side yard.
- (12) *Dwelling unit arrangement.* No zero lot line development shall be constructed with one dwelling unit arranged on the story above the other dwelling unit.

(13) *Firewall.* The dwelling wall abutting the zero lot line shall be a one-hour firewall.

(d) *Site plan.*

(1) *Contents.* The site plan shall include:

- a. Lot lines and required yards.
- b. Location, shape, size and height of all existing and proposed buildings, decorative walls and elements, and entrance features.
- c. Locations of off-street parking.
- d. Phases of development.
- e. Data, including gross and net site acreage, lot dimensions and areas, building heights and number of stories.

(2) *Review criteria.* In addition to any other criteria the zoning board shall consider appropriate, the board may consider the following in evaluating the suitability of the site plan for a zero lot line development:

- a. *Varied height and setback.* When possible, front yard depth, building height, and rooflines are varied to avoid monotonous appearance, which is more objectionable when homes are closer together and lots are smaller.
- b. *Block length.* Shorter blocks and cul-de-sac streets are also used to reduce the monotony of site design.

(Code 1981, § 21-12-4-1; Ord. No. 738, 8-1-2006)

Secs. 38-310—38-336. Reserved.

DIVISION 2. SPECIFIC REGULATIONS FOR CERTAIN USES

Sec. 38-337. Specific regulations for commercial establishments.

The following specific regulations and standards shall apply to the commercial establishments in residential districts, classified as special uses in section 38-307(5):

- (1) *Location.* Any such commercial establishment shall be located so as to abut a direct access street, but may abut a limited access street only if access to and from such street is provided by a merging feeder system.
- (2) *Business.*
 - a. All businesses shall be conducted within an enclosed building, except for off-street parking, loading and unloading; and except for those businesses serving agriculture, located in an agricultural district, which are normally carried on in the open.
 - b. Establishments of the drive-in type offering goods and services directly to customers waiting in parked vehicles shall not be permitted.

- (3) *Performance standards, nuisances and hazards.*
- a. Smoke and particulate matter. No commercial establishment shall be allowed which produces emission of smoke of more than five smoke units per hour per stack; however, during a one-hour period in each 24 hours, each stack may emit up to ten smoke units per hour when blowing soot or cleaning fires, with no more than four minutes of smoke of a density of Ringelmann Number 2.
 - b. Vibrations, heat or glare which are readily detectable by normal human senses without the use of instruments at the lot lines.
 - c. Toxic or noxious matter, odors, vapors or gases in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property, business, crops or livestock.
- (4) *Signs.* Signs in connection with a commercial establishment shall:
- a. Not be illuminated;
 - b. Not extend beyond lot lines; and
 - c. Not exceed an area of one-sixth of the linear feet of frontage of the lot on which such establishment is located or 30 square feet, whichever is smaller.
- (5) *Landscaping.* Commercial establishments in an R Residential District shall maintain the following landscape standards:
- a. All open, unpaved, uncovered and unsheltered yards and all other open spaces shall be planted with trees at least two inches in diameter measured at a point five feet above the ground surface. A tree-planting ratio of at least one such tree for every 2,000 square feet of lot area shall be maintained.
 - b. All parking lots and carports with a capacity of six or more vehicles visible from the front line of the front yard of the lot on which such parking lots and carports are located shall be screened from public view with a fence, wall or hedge at least 50 percent solid and at least 2½ feet but not more than four feet in height.
- (6) *Off-street parking spaces.* Off-street parking spaces for commercial establishments shall be provided as follows:
- a. All such parking spaces shall be located on the same lot or tract of land as the establishment served.
 - b. The number of such parking spaces required shall be the sum of the individual requirements of the various individual establishments, computed separately in accordance with this section. Such parking spaces for one such establishment shall not be considered as providing the number of such parking spaces for any other such establishment.
 - c. Such parking space for the accommodation of an automobile or a light motor truck shall be at least 300 square feet, including both maneuvering and parking area.

- d. Such parking space for the accommodation of a heavy motor truck, motor bus or other vehicle shall be of dimensions herein specified for an off-street loading berth.
 - e. All such parking space in an R Residential District shall be surfaced with some all-weather dustless material.
 - f. No such parking space shall be located less than ten feet from any front lot line.
 - g. No such parking space shall be located less than five feet from any side or rear lot line.
 - h. Section 38-52(3)b shall apply.
 - i. Schedule of off-street parking spaces:
 - 1. Clinics and offices of physicians shall provide three such parking spaces for each staff or visiting physician plus one such parking space for each other employee.
 - 2. Business, professional, financial and office buildings, other than noted in subsection (6)i.1 of this section, shall provide one such parking space for every 100 square feet of floor area.
 - 3. Retail stores shall provide one such parking space for every 100 square feet of floor area.
 - 4. Farm businesses shall provide one such parking space for each employee not being on the premises.
- (7) *Off-street loading berths.* Off-street loading berths for commercial establishments shall be provided as follows:
- a. All such loading berths shall be located on the same lot or tract of land as the establishment served, except when serving adjacent establishments when the loading berth requirements are sufficient to serve both such establishments.
 - b. No such loading berth in an R Residential District shall be located less than 50 feet from the building restriction line of a dwelling or residential building unless such loading berth is screened from view by a fence, wall or hedge at least 75 solid and at least six feet in height.
 - c. No such loading berth shall be located within 50 feet from the nearest point of intersection of two streets.
 - d. Such loading berth shall be designed with means of vehicular access to a street or alley which will least interfere with traffic movement.
 - e. Such loading berth in an R Residential District shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - f. No such loading berth shall be located less than ten feet from any front lot line.

- g. No such loading berth shall be located less than five feet from any side or rear lot line.
 - h. Section 38-52(3)b shall apply.
 - i. No vehicle repair or service work shall be performed on any such loading berth located in an R Residential District.
 - j. All such loading berths shall have a vertical clearance of at least 14 feet.
- (Code 1981, § 21-12-5)

Sec. 38-338. Application for special use.

(a) An application for one of the special uses of land specified in section 38-307 may be made by filing a written application or petition to the village board in quintuplicate, in the office of the zoning officer. Such application shall:

- (1) State the name and address of the applicant (and the name and address of the owner of record, if applicant is not such owner);
- (2) State the location of the property for which the special use is sought;
- (3) Request the specific use desired;
- (4) State facts sufficient to demonstrate that the conditions prescribed in section 38-306 exist, and support such statements with any plans or data necessary for a proper understanding of the application or such plans or data as are recommended by the zoning officer or the village board.

(b) The original copy of such application or petition shall be retained by the zoning officer and the duplicate copies shall be transmitted to the clerk for the records of the village board.

(Code 1981, § 21-12-6)

Sec. 38-339. Hearing date and notice of public hearing.

(a) If the application for special use is in proper form, the zoning officer shall set a hearing date for the application and shall cause a notice of the time and place of such public hearing to be published in a newspaper of general circulation in the village not less than 15 days nor more than 30 days prior to the date of hearing. Such notice shall contain the particular location for which the special use is requested as well as a brief statement describing the special use.

(b) Within five days after publication, a copy of such published notice shall be mailed to the applicant at the address given in such application, and a copy shall be mailed or delivered to the clerk with the certificate of the publisher attached.

(c) If the application is not in proper form, the village board shall notify the applicant in writing, and send a copy of such communication to the clerk, and no hearing shall be set nor notice published until a proper application is filed.

(Code 1981, § 21-12-7)

Sec. 38-340. Hearing by zoning board on special use.

(a) A public hearing on the application for special use shall be conducted by the zoning board on the date set in accordance with the general rules for meetings.

(b) After the hearing, the zoning board shall make a report of its findings to the village board, and in the report shall indicate its approval or disapproval of the special use applied for. Every report shall contain a finding of fact specifying the reason for the zoning board's recommendation of approval or disapproval. Such report may also recommend that special conditions and safeguards for the protection of the public health, safety and welfare are imposed by the village board if it grants the application for special use.

(Code 1981, § 21-12-8)

Sec. 38-341. Vote of the village board.

(a) Upon the report of the zoning board, the village board may, by ordinance, without further public hearing, grant the application or petition for the special use or it may refer it back to the zoning board for further consideration.

(b) An ordinance granting an application for special use may be adopted by the majority vote of the village board, regardless of the recommendation of the zoning board, except in those cases where a written protest against the granting of such special use is filed with the clerk signed and acknowledged by the owners of 50 percent of the frontage immediately adjoining, across an alley therefrom, or directly opposite the frontage for which the special use is sought. In these cases, a two-thirds vote of the members of the village board present and voting at a meeting at which a quorum is present shall be required. A written protest shall be filed in the office of the clerk at least five days before the village board meeting next following the zoning board hearing. The clerk shall forward the same to the chairman of the village board's zoning committee.

(c) Every ordinance granting an application for special use shall contain a finding of fact specifying the reason for granting same and shall specify any special conditions or safeguards for the protection of the public health, safety and welfare which the village board may impose.

(Code 1981, § 21-12-9)

Sec. 38-342. Implementation.

(a) If a special use that has been granted is not implemented within one year from the date of enactment by application for and issuance of a permit according to plans as presented and approved, that special use shall be rescinded and the land area involved shall revert to the zoning use that existed at the time of the grant of the special use.

(b) A special use about to expire may be extended for a year by application for renewal through the same process as required for the initial grant of such use.

(Code 1981, § 21-12-10)

Secs. 38-343—38-372. Reserved.

ARTICLE VII. VARIANCES

Sec. 38-373. Description and purpose.

A variance may be granted in cases when there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the regulations herein relating to the use, construction or alteration of buildings or structures or the use of land. Such variance in the application of the regulations must be in harmony with the general purpose and intent of this chapter and the regulations and standards adopted herein, and in accordance with the general and specific rules and standards hereinafter set forth in regard to the granting of such variances.

(Code 1981, § 21-13-1)

Sec. 38-374. General rules and standards.

(a) The village board may grant a variance, by ordinance, in a specific case and after a public hearing before the zoning board, in accordance with the procedure hereinafter set forth when it appears:

- (1) That special conditions and circumstances exist which are not applicable to other lands or structures in the same district;
- (2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other lands or structures in the same district under the terms of this chapter;
- (3) That the special conditions and circumstances do not result from the actions of the applicant;
- (4) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district.

(b) No nonconforming use of neighboring lands or structures in the same district, and no permitted use of lands or structures in other districts, shall be considered grounds for the issuance of a variance.

(Code 1981, § 21-13-2)

Sec. 38-375. Limitation in granting variances.

When it appears that the conditions set forth in section 38-374 have been satisfied, the zoning board shall not recommend that the village board grant a variance, except in the following instances:

- (1) To permit any yard, court, buffer strip, setback line or spacing between buildings of less dimension than required by the applicable regulations;

- (2) To permit a reduction in the minimum or an increase in the maximum floor area ratio imposed by the applicable regulations;
 - (3) To permit any structure to exceed the height limitations imposed by the applicable regulations;
 - (4) To permit greater coverage than required by the applicable regulations;
 - (5) To permit the use of a lot for a use otherwise prohibited solely because of the insufficient area of the lot;
 - (6) To permit a reduction in the minimum habitable floor area of a dwelling unit or a lodging unit;
 - (7) To permit a reduction in the minimum or an increase in the maximum floor area of a building as imposed by the applicable regulations;
 - (8) To permit a reduction in the number of off-street parking spaces or loading berths required about or in connection with a use;
 - (9) To permit the reconstruction of a nonconforming structure which has been destroyed or damaged to an extent of more than 50 percent of its value by fire, an act of God or the public enemy, when the zoning board shall find some compelling necessity requiring a continuance of the nonconforming structure;
 - (10) To permit in an R Residential District the creation of new lots having areas less than the minimum specified for the district, where such new lots conform with the size of lots directly across the street from and immediately adjacent on either side to, the tract being subdivided, provided that the tract is located in an area which has been partially subdivided prior to the enactment of this chapter; it being the purpose of this variance to allow the logical completion of a subdivision plan already in progress and not to permit the extension of smaller lot sizes to surrounding lands.
- (Code 1981, § 21-13-3)

Sec. 38-376. Application for variance.

(a) Variances in the application of the zoning regulations and standards adopted herein may be applied for by filing a written application or petition to the village board, in triplicate, in the office of the zoning officer. Such application shall:

- (1) State the name and address of the applicant;
- (2) State the location of the property for which the variance is sought;
- (3) State facts which the applicant believes bring him within the requirements set forth in section 38-374; and
- (4) Request a variance restricted to one or more of the situations described in section 38-375.

(b) The original copy of such application shall be retained by the zoning officer; the duplicate copies shall be transmitted by the zoning officer to the clerk for the records of the village board.

(Code 1981, § 21-13-4)

Sec. 38-377. Hearing date and notice of public hearing.

(a) If the application for variance is in proper form, the zoning board shall set a hearing date for the application and shall cause a notice of the time and place of such public hearing to be published in a newspaper of general circulation in the village not less than 15 days nor more than 30 days prior to the date of hearing. Such notice shall contain the particular location for which the variance is requested as well as a brief statement of what the proposed variance consists.

(b) Within five days after publication, a copy of such published notice shall be mailed to the applicant at the address given in such application, and a copy shall be mailed or delivered to the clerk.

(c) If the application is not in proper form, the zoning board shall notify the applicant in writing, and send a copy of such communication to the clerk, and no hearing shall be set nor notice published until a proper application is filed.

(Code 1981, § 21-13-5)

Sec. 38-378. Hearing by zoning board on variance.

(a) A public hearing on the application for variance shall be conducted by the zoning board on the date set in accordance with the general rules for meetings provided in section 38-435, and such hearing may be continued, from time to time, as required.

(b) After the hearing, the zoning board shall make a report of its findings to indicate its approval or disapproval of such proposed variance. Every report shall contain findings of fact specifying the reason for the zoning board's recommendation of approval or disapproval.

(Code 1981, § 21-13-6)

Sec. 38-379. Vote of the village board.

(a) Upon the report of the zoning board, the village board may, by ordinance, without further public hearing, adopt the proposed variance or it may refer it back to the zoning board for further consideration.

(b) No proposed variance which fails to receive the approval of the zoning board may be adopted by the village board except by the favorable vote of three-fourths of all members of the village board.

(c) Every ordinance granting a variance shall contain findings of fact specifying the reason for making such variation.

(Code 1981, § 21-13-7)

Secs. 38-380—38-401. Reserved.

ARTICLE VIII. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

Sec. 38-402. Building permit application.

- (a) (1) No building or structure within the village shall be erected, moved, altered or razed, nor shall any such work be started to erect, move, alter or raze until a building permit shall have been obtained from the zoning enforcement officer, as required by the village building code; nor shall any material change be made in the use of any building or land without a building permit having been obtained from the zoning enforcement officer.
- (2) No such building permit shall be issued to erect a building or structure or make any change of use of a building or land unless it is in conformity with the provisions of this chapter and all amendments hereto. The zoning enforcement officer shall have the authority to issue permits for temporary buildings and uses for construction purposes, when the building or use will not continue for a period exceeding one year. Unless construction is started within six months after the date of issuance of a building permit, the building permit shall automatically become void and fees forfeited. The zoning officer may reinstate a building permit that has become void for failure to commence construction without payment of further fees in his discretion upon good cause shown. Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this chapter shall be collected by the zoning enforcement officer in advance of issuance. The amount of such fees shall be established by ordinance or resolution of the village board.
- (b) The zoning enforcement officer shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of such permit.
- (c) (1) The zoning enforcement officer shall require that all applications for building permits be accompanied by plans and specifications, including a plot plan, in duplicate, drawn to scale, showing the following:
 - a. The actual shape, location and dimensions of the lot drawn to scale.
 - b. The shape, size and location of all buildings or other structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
 - c. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
- (2) One copy of the plans shall be returned to the applicant by the zoning enforcement officer, after he shall have marked such copy either as approved or disapproved. The second copy shall be retained in the office of the zoning enforcement officer.

(d) Upon the completion of the work authorized by a building permit, the holder thereof shall seek final inspection thereof by notifying the zoning enforcement officer. The zoning enforcement officer shall make such final inspection promptly.

(Code 1981, § 21-14-2)

Sec. 38-403. Certificate of occupancy.

No land, building, structure or part thereof shall be occupied by or for any use for which a building permit is required by this chapter unless and until a certificate of occupancy shall have been issued for such new use. The following shall apply in the issuance of any certificate:

- (1) *Certificates not to be issued.* No certificate of occupancy shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all the provisions of this chapter.
- (2) *Certificates required.* No building or structure, or parts thereof, which is erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- (3) *Certificates including zoning.* Certificates of occupancy as required by the building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of occupancy as required by this chapter.
- (4) *Certificates for existing buildings.* Certificates of occupancy will be issued for existing buildings, structures or parts thereof or existing uses of land if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land are in conformity with the provisions of this chapter.
- (5) *Temporary certificates.* Nothing in this chapter shall prevent the zoning enforcement officer from the issuing of a temporary certificate of occupancy for a portion of a building or structure in process of erection or alteration, provided that such temporary certificate shall not be effective for a period of time in excess of six months nor more than five days after the completion of the building ready for occupancy, and provided further that such portion of the building, structure or premises is in conformity with the provisions of this chapter.
- (6) *Records of certificates.* A record of all certificates issued shall be kept on file in the office of the zoning enforcement officer, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (7) *Certificates for dwelling accessory buildings.* Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plat plan and when completed at the same time as such dwellings.
- (8) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the zoning enforcement officer on forms furnished by the village, and such

certificates shall be issued if, after final inspection, it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this chapter. If such certificate is refused for cause, the applicant therefor shall be notified in writing of such refusal and cause thereof.

(Code 1981, § 21-14-3)

Secs. 38-404—38-434. Reserved.

ARTICLE IX. BOARD OF APPEALS

Sec. 38-435. Organization.

(a) A board of appeals is established in accordance with the provisions of the state statute applicable thereto.

(b) Regular meetings of the board shall be held at such time and place within the village as the board may determine. Special meetings may be held at the call of the chairman, or as determined by the board. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel attendance of witnesses.

(c) All meetings of the board shall be open to the public. Such board shall keep minutes of its proceedings showing the vote of each member of every question. If any member is absent or fails to vote, the minutes shall indicate such fact. The board shall adopt its own rules of procedure not in conflict with state statutes or this chapter.

(Code 1981, § 21-15-1)

Sec. 38-436. Appeals; how taken.

(a) Appeals to the board may be taken by any person aggrieved or by an officer, department, board or bureau of the village.

(b) Such appeal shall be taken within 20 days from the date of the action appealed from, by filing with the zoning enforcement officer and with the board of appeals a notice of appeal, specifying the grounds thereof. The zoning enforcement officer shall forthwith transmit to the board all papers constituting the records upon which the action appealed from was taken.

(c) An appeal stays all proceedings in furtherance of the action appealed from unless the zoning enforcement officer certifies to the board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

(d) The board of appeals shall fix a reasonable time for hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. The board may reverse or affirm, wholly or partly, or may modify the use, requirement, decision or determination as, in its opinion, ought to be made in the premises.

(Code 1981, § 21-15-2)

Sec. 38-437. Jurisdiction.

The board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this chapter, but does have the power to act on those matters where this chapter provides for an administrative review, interpretation and to authorize a variance as defined in section 38-3 and state law. The powers include:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning enforcement officer or any other administrative official in carrying out or enforcing any provisions of this chapter.
- (2) *Special use.* To hear and recommend to the village board provisions of this chapter for interpretations of the zoning map and for decisions on special use situations on which this chapter specifically authorizes the board to approve. Any special use permit shall be subject to such conditions as the board may require to preserve and promote the character of the zoning district in question and otherwise promote the purpose of this chapter.
- (3) *Variance.* To recommend to the village board, upon an appeal, a variance from the strict application of the provisions of this chapter. In recommending a variance, the board may attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. In recommending a variance, the board shall state the grounds upon which it justifies the granting of a variance.

(Code 1981, § 21-15-3)

Sec. 38-438. Standards.

Each case before the board of appeals shall be considered as an individual case and shall conform to the detailed application of the following standards in a manner appropriate to the particular circumstances of such case. All uses as listed in any district requiring board approval for a permit shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of adjacent districts. The board shall give consideration to the following:

- (1) The location and size of the use.
- (2) The nature and intensity of the operations involved in or conducted in connection therewith.
- (3) Its size, layout and its relation to pedestrian and vehicular traffic to and from the use.
- (4) The assembly of persons in connection with such use will not be hazardous to the neighborhood or be incongruous therewith or conflict with normal traffic of the neighborhood.

- (5) Taking into account, among other things, convenient routes of pedestrian traffic, particularly of children.
- (6) Vehicular turning movements in relation to routes of traffic flow, relation to street intersections, sight distance and the general character and intensity of development of the neighborhood.
- (7) The location and height of buildings, the location, nature and height of walls, fences and the nature and extent of landscaping of the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land, buildings or impair the value thereof.
- (8) The nature, location, size and site layout of the uses shall be such that it will be a harmonious part of the district in which it is situated taking into account, among other things, prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationships of one type of use to another.
- (9) The location, size, intensity and site layout of the use shall be such that its operations will not be objectionable to nearby dwellings, by reason of noise, fumes or flash of lights to a greater degree than is normal with respect to the proximity of commercial to residential uses, nor interfere with an adequate supply of light and air, nor increase the danger of fire or otherwise endanger the public safety.

(Code 1981, § 21-15-4)

Sec. 38-439. Miscellaneous.

No order of the board of appeals permitting the erection or alteration of buildings shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is commenced and proceeds to completion in accordance with the terms of such permit. No order of the board of appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however that the use of such permit is dependent upon the erection or alteration of a building. Such order shall continue in full force and effect if a building permit for such use, erection or alteration is obtained within such period and such erections or alterations are commenced and proceed to completion in accordance with the terms of such permit.

(Code 1981, § 21-15-5)

Sec. 38-440. Appeals to court.

All final administrative decisions of the board of appeals rendered under the terms of this chapter shall be subject to judicial review pursuant to the provisions of the Administrative Review Act approved May 8, 1945, and all amendments thereof, and the rules adopted pursuant thereto.

(Code 1981, § 21-15-6)

Secs. 38-441—38-463. Reserved.

ARTICLE X. AMENDMENT OF REGULATIONS AND DISTRICTS**Sec. 38-464. Procedure for proposing amendments.**

(a) The village board may from time to time, on its own motion, or zoning board, or on petition, amend by ordinance the districts created and established and the regulations and standards adopted in this chapter and in any future amendments hereto.

(b) The village board may, by resolution, refer to the zoning board a proposed amendment, stating the specific changes proposed to be made, and shall transmit one copy of the resolution to the zoning officer and one to the zoning board.

(c) When an amendment is proposed by the zoning board, the board shall prepare a statement of recommendation to the village board, stating the specific changes proposed to be made and explain why such amendment may be needed or desirable, and shall file three copies of such statement in the office of the zoning officer. The zoning officer shall retain the original copy of the statement, and the duplicate copies shall be transmitted to the clerk for the records of the village board.

(d) Petition.

(1) If the amendment is proposed by petition of a person other than the zoning board, such proposal may be made by filing three copies of written petition to the village board in the office of the zoning officer. Such petition shall:

- a. State the name and address of the petitioner;
- b. State the interest of the petitioner;
- c. State the specific changes sought and state facts sufficient to demonstrate need for or desirability of such changes, and support such statements with any plans or data necessary for a proper understanding of the changes proposed and the grounds therefor, or such plans or data as are recommended by the zoning officer or prescribed by the zoning board or village board.

(2) The original copy of such petition and any supporting documents shall be retained by the zoning officer; the duplicate copies shall be transmitted to the clerk for the records of the village board.

(Code 1981, § 21-16-1)

Sec. 38-465. Procedure on petition before hearing.

If the amendment proposed may not be adopted legally under the laws of the state, the village board shall notify the petitioner in writing and send a copy of the communication to the clerk.

(Code 1981, § 21-16-2)

Sec. 38-466. Hearing date and notice of public hearing.

Within a reasonable time after receipt of a copy of a resolution, statement of recommendation or petition, as provided in section 38-464, the zoning board shall set hearing dates for the proposed amendment and shall cause a notice of the time and place of such public hearings to be published in a newspaper of general circulation in the village not less than 15 days nor more than 30 days before the date of hearing. Such notice shall set forth in full the proposed changes in this chapter.

(Code 1981, § 21-16-3)

Sec. 38-467. Hearing by zoning board on amendment.

(a) Public hearings on the proposed amendment shall be conducted by the zoning board on the dates set in accordance with the general rules for meetings provided in this chapter, and such hearings may be continued from time to time as required.

(b) After the conclusion of the last hearing required herein, the zoning board shall make a report of their findings to the village board, and in the report shall indicate their approval or disapproval of the proposed amendment. Every report shall contain a finding of fact specifying the reason for the zoning board's recommendation of approval or disapproval.

(Code 1981, § 21-16-4)

Sec. 38-468. Vote of the village board.

(a) Upon the report of the zoning board after the public hearings, the village board may, by ordinance, adopt the proposed amendment by majority vote, regardless of the recommendation of the zoning board, except in those cases where a written protest against the proposed amendment is filed with the clerk, signed and acknowledged by:

- (1) The owners of 20 percent of the frontage proposed to be altered; or
- (2) The owners of 20 percent of the frontage immediately adjoining or across an alley from the frontage proposed to be altered; or
- (3) The owners of 20 percent of the frontage directly opposite the frontage proposed to be altered.

(b) In these cases in subsection (a) of this section, a three-fourths vote of all the members of the village board shall be required for adoption of the proposed amendment.

(c) A written protest pursuant to this section shall be filed in the office of the clerk at least five days before the village board meeting next following the zoning board hearing.

(Code 1981, § 21-16-5)

Secs. 38-469—38-489. Reserved.

ARTICLE XI. VIOLATIONS AND PENALTIES**Sec. 38-490. Penalty.**

Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of the provisions of this chapter shall be fined in accordance with the general penalty provisions of section 1-19 for each offense. Each day a violation is permitted to exist shall constitute a separate offense.

(Code 1981, § 21-17-1)

Sec. 38-491. Civil remedies.

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 chapter, the proper authorities of the village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(Code 1981, § 21-17-2)

