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The zoning regulations of the Village, adopted by Ordinance, and subsequent amendments thereto, which are separately published from Chapter 21, are hereby continued in full force and effect.

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**Chapter 21**  
**ALGONQUIN ZONING ORDINANCE**

BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF ALGONQUIN, ILLINOIS:

The Zoning Ordinance passed and approved by the Village Board of the Village of Algonquin on the 1<sup>st</sup> day of April 2003, and as subsequently amended, is herewith and now comprehensively amended as follows:

**21.1 TITLE**

This Chapter 21 (“Chapter” for purposes of this Chapter 21) shall be known, cited, and referred to as the “Algonquin Zoning Ordinance” and shall replace any and all previously stated Algonquin Zoning Ordinance(s).

**21.2 INTENT AND PURPOSE**

This Chapter is adopted for the following purposes:

- A. To promote and protect the public health, safety, morals, comfort, and general welfare of the people;
- B. To divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration, and use of buildings, structures, and land for residence, business, industrial and other specified uses;
- C. To protect the character and the stability of the residential, business, and industrial areas within the Village and to promote the orderly and beneficial development of such areas;
- D. To provide adequate light, air, privacy, and convenience of access to property;
- E. To regulate the intensity of use of lot areas and to determine the area of open spaces surrounding buildings necessary to provide adequate light and to protect the public health;
- F. To establish building lines and the location of buildings designed for residential, business, manufacturing, or other uses within such areas;
- G. To set reasonable standards to which buildings or structures shall conform therein;
- H. To prohibit uses, buildings, or structures incompatible with the character of development or intended uses within specified zoning districts;
- I. To prevent additions to, or alterations or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations imposed hereunder;
- J. To limit congestion in the public streets and protect the public health, safety, convenience, and general welfare by providing for the off-street parking of motor vehicles and the loading and unloading of commercial vehicles;

- K. To protect against fire, explosion, noxious fumes and other hazards in the interest of the public health, safety, comfort, and general welfare;
- L. To prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the uses and bulk of buildings in relation to the land surrounding them;
- M. To conserve the taxable value of land and buildings throughout the Village;
- N. To provide for the elimination of nonconforming uses of land, buildings and structures that are adversely affecting the character and value of desirable development in each district; and
- O. To define and limit the powers and duties of the administrative officers and bodies as provided herein.

### **Section 21.3 DEFINITIONS**

In the construction of this Chapter, the rules and definitions contained in this Section shall be observed and applied, except when contradictory to the context of any provision.

Words used in the present tense shall include the future; words used in the singular shall include the plural; the word “building” shall include the word “structure”; the word “lot” shall include the word “plot”; and the word “shall” is mandatory and not directory. Definitions in Appendix A of this Code are also applicable to this Chapter. Unless indicated otherwise, definitions are not case-sensitive.

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

**ACCESSORY BUILDING OR USE:** A subordinate building or use that is located on the same lot on which the principal building or use is situated and that is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.

An “accessory use” includes, but is not limited to, the following:

1. A children’s playhouse, garden house, and private greenhouse.
2. A garage, shed, or building for domestic storage.
3. Pools and water gardens.
4. Gazebo, either attached to a deck or freestanding; a structure with a roof.
5. Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations.
6. Storage of goods used in or produced by manufacturing activities, on the same lot or parcel of ground with such activities, unless such storage is excluded by the district regulations.
7. Off-street motor vehicle parking areas and loading and unloading facilities.
8. Public utility communication, electric, gas, water, and sewer lines, and their supports and incidental equipment.
9. Private boat slips and docks.
10. Where a substantial part of the wall of an accessory building is part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof, such accessory building shall be counted as part of the main building and conform to all regulations applicable thereto.

**ACREAGE:** Any tract or parcel of land having an area of 1 acre or more that has not been subdivided by metes and bounds or platted.

**ADULT BUSINESS:** Any establishment in which 25 percent or more of its stock-in-trade or

business activity in a use such as, but not limited to, the following: adults-only bookstores, adults-only motion picture theaters, adult entertainment centers, rap parlors, adults-only nightclubs or adults-only Saunas, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

**ADULT DAY CARE:** A non-residential facility offering supervised care, recreation, or training of adults.

**ADULT ENTERTAINMENT BUSINESS:** Synonymous with Adult Business, as defined herein.

**ADULT ENTERTAINMENT CENTER:** An enclosed building or part of an enclosed building that contains one or more coin-operated or credit card operated mechanisms that, when activated, permit a customer to view a live person nude or in such attire, costume, or clothing as to expose to view the human male or female genitalia; pubic hair; buttocks; perineum; anal, or pubic regions; or female breast, at or below the areola thereof. In addition, the viewing of a live person, in the above described manner, after paying of any admission or fee for the viewing of same activity.

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

**ADULTS-ONLY BOOKSTORE:** A bookstore or video store in which 25 percent or more of its stock-in-trade, books, magazines, films for sale, or viewing on premises by use of video, motion picture devices, or other coin-operated means, and other periodicals that are distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality, or sadomasochistic activity.

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

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

**ADULTS-ONLY SAUNA:** An establishment or place, primarily in the business of providing a steam bath and/or massage services, where explicit sexual conduct is depicted and/or sexual activity is explicitly or implicitly encouraged or tolerated.

**AIRPORT OR AIRCRAFT LANDING FIELD:** Any landing area, runway, or other facilities (including heliports), designed, used, or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings, and open spaces.

**ALLEY:** A public way, not more than 30 feet wide, that affords only a secondary means of access



to abutting property.

**ALTERNATIVE TOWER STRUCTURE:** Man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANIMAL HOSPITAL OR VETERINARY CLINIC:** An establishment designed for the care and treatment of domestic animals.

**ANTENNA:** An arrangement of wires, metal rods, or similar materials used for the transmission and/or reception of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, and includes satellite dishes and communication towers.

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

**ARCADE OR BILLARD/POOL HALL, OR GAME ROOM:** Any establishment displaying, for public patronage or keeping for operation, four or more amusement devices including, but not limited to, pool tables, foosball tables, air hockey tables, mechanical rides for children, electronic games and shooting gallery-type games.

**AWNING OR CANOPY:** An architectural projection that provides weather protection, identity, or decoration and is supported by the building to which it is attached. An awning/canopy is comprised of a rigid structure over which a covering is generally attached.

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

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

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

**BEDROOM:** Each room in excess of three, other than kitchens, baths, laundries, pantries, foyers, or communicating corridors, shall be considered a bedroom, whether or not arranged or intended for sleeping.

**BEST MANAGEMENT PRACTICES (BMP):** A specific site development technique that best protects a natural resource from potential degradation due to development.

**BILLBOARD:** Any general outdoor advertising sign that is designed to advertise or direct attention to a business or activity conducted, or a product, commodity, service, real property, entertainment,

or facilities offered or sold elsewhere than on the same lot or within the same building upon which the sign is located or to which it is affixed, or that directs persons to a location different from where the sign is installed.

**BLOCK:** A tract of land bounded by publicly dedicated walkways or by streets or, in lieu of a street or streets, by public parks, cemeteries, bulkhead lines, or shorelines of waterways, or a corporate boundary of the Village.

**BLOCK FACE:** That portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

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

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

**BUFFER:** Strip of land used to separate two different land uses.

**BUILDABLE AREA:** The space remaining on a zoning lot after the minimum open space and setback requirements of this Chapter have been met.

**BUILDING:** Any structure (or group of structures in condominium developments) with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings, and that is designed or intended for the shelter, enclosure or protection of persons or animals.

**BUILDING HEIGHT:** The vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a non-flat roof (gable, hip, gambrel, etc.); provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.

**BUILDING, NONCONFORMING:** Any building that does not conform to the regulations of this Chapter prescribing the maximum floor areas, required yards, coverage, height and setbacks, minimum required spacing between buildings on a single lot, and minimum required usable open space for the zoning district in which such building is located.

**BUILDING, PRINCIPAL:** A building in which is conducted the main use of the zoning lot on which it is situated.

**BUILDING SETBACK LINE:** A line parallel to the street line at a distance from it, regulated by the front yard requirements established in this Chapter.

**BULK:** The term used to describe the size and mutual relationships of buildings and other

structures, as to size, height, coverage, shape, and location of exterior walls in relation to lot lines, to the center line of streets, to other walls of the same building and to other buildings or structures, and to all open space relating to the building or structure.

**BUSINESS PARK:** A collection of lots and/or buildings wherein the principal land use is commercial or light industrial in nature.

**CAR WASH:** A building, or portion thereof, where motor vehicles are washed by a mechanical device.

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

**CEMETERY:** Land used or intended to be used for the burial of animals or humans.

**CHAPTER:** Reference to Chapter herein shall mean this Chapter 21, which is the Algonquin Zoning Ordinance.

**CHILDREN'S PLAYHOUSE:** The actual structure designed for children to play on and in, not including play equipment such as swings, slides, and other apparatus.

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

**CLEAR CUTTING:** Removal of most or all trees from a given tree grouping or tract of woodland or savanna versus the selective removal of individual trees for purposes of health or safety.

**CLUB OR LODGE, PRIVATE:** A private club or lodge is a nonprofit association of persons who are bona fide members paying annual dues that owns, hires, or leases a building or portion thereof.

**CLUSTERED HOUSING:** Placing houses closer together than typically allowed in order to provide open space preserving natural or sensitive landscape areas. Clustered housing does not allow the base density to be exceeded, rather it makes the development possible while preserving the natural areas.

**COMMERCIAL VEHICLE:** Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for-hire or not-for-hire, but not including a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially.

**COMMUNITY RESIDENCE:** A single dwelling unit occupied on a relatively permanent basis in a familylike environment by unrelated persons with disabilities. Paid professional support staff, provided by a sponsoring agency, either living with the residents on a 24-hour basis or present whenever residents are present at the dwelling shall be required, unless a special use permit is issued. The community residence shall comply with the zoning regulations for the use district in which it is located. Community residence excludes facilities that provide care for persons who have been convicted of a crime or who have been released from jail or prison. (See also Group Home or

Halfway House.)

**COMPREHENSIVE PLAN:** The Village of Algonquin Comprehensive Plan which is on file in the Community Development Department and the office of the Village Clerk and is amended from time to time.

**CONSERVATION AREAS:** Public or private lands that are preserved or managed to encourage native plant and animal communities.

**CONSERVATION DESIGN:** A density-neutral design system that takes into account the natural landscape and ecology of a development site and facilitates development while maintaining the most valuable natural features and functions of the site.

**CONSERVATION EASEMENT:** The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

**CUBICLE:** See definition for Booth.

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

**DAY CARE CENTER:** Any child care facility operated for profit or not for profit, that regularly provides day care for minor children and that must be licensed to render such day care by the Illinois Department of Children and Family Services (includes day nursery and nursery schools).

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

**DOOR:** Full, complete, nontransparent closure device that obscures the view or activity taking place within the enclosure.

**DOWNTOWN PLANNING STUDY:** A document dated March 5, 2013, prepared by Land Vision, Inc., which is on file in the Community Development Department.

**DRIVE-THROUGH:** A business establishment so developed that its retail or service is provided to serve the patrons while in the motor vehicle.

**DRIVE-THROUGH RESTAURANT:** Any food service establishment, restaurant, or similar place in which food or drink is for sale for consumption on the premises or elsewhere in which service is received in a motor vehicle or at a central service window. The term drive-through shall apply to any food service establishment in which service is made to a customer at a location other than tables on the premises intended for use by the customer for eating.

**DWELLING:** A building or portion thereof, but not including a house trailer or mobile home,

designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, boarding, or lodging houses.

**DWELLING, MULTIPLE-FAMILY:** A building or portion thereof, designed or altered for occupancy by three or more families living independently of each other in separate dwelling units; and also referred to as a multiple-family dwelling.

**DWELLING, ONE-FAMILY:** A building designed exclusively for use and occupancy by one family and entirely separated from any other dwelling unit by space; and also referred to as a one-family or single-family dwelling.

**DWELLING, TWO-FAMILY:** A building designed or altered to provide dwelling units for occupancy by two families; and also referred to as a two-family dwelling or duplex.

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

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

**ECO-CORRIDOR OR GREENWAY:** The means to connect significant resource areas, thus enhancing the functional value of the natural ecosystem by providing naturalized corridors that allow free migration of wildlife.

**EFFECTIVE DATE:** The effective date this Chapter was passed, and as amended.

**ENERGY STAR:** A U.S. Environmental Protection Agency voluntary program that helps businesses and individuals save money and protect our climate through superior energy efficiency.

**FAA:** The Federal Aviation Administration.

**FAMILY:** Two or more persons related by blood, marriage, or adoption, including foster children or a group of not more than five persons (excluding servants) who need not be related by blood, marriage, or adoption, living together and maintaining a common household, or no more than two individuals who are not necessarily related to each other by blood, and their dependents, together with domestic servants, living as a single, not-for-profit housekeeping unit occupying a dwelling unit, or as otherwise defined by the Federal Fair Housing Act, as may be amended from time to time.

**FCC:** The Federal Commerce Commission.

**FITNESS CENTER:** A building or space less than 10,000 square feet that houses exercise equipment and facilities for the purpose of physical exercise, excluding shower facilities and court areas. (See also Health Club.)

**FLOOR AREA RATIO (FAR):** The floor area of the building on a zoning lot divided by the area of such zoning lot. The zoning district shall determine the floor area ratio that is allowable. The floor area of a building shall be the sum of the gross horizontal area of the several floors of a

building measured from the exterior walls or from the centerline of walls separating two buildings.

**GARAGE, BUS.** Any building used or intended to be used for the storage of three or more passenger motorbuses or motor coaches used in public transportation, including school buses.

**GARAGE, PARKING.** A structure for the parking of private motor vehicles either above or below ground.

**GARAGE, PRIVATE:** A detached accessory building or portion of the principal building designed, arranged, used, or intended to be used for the storage of motor vehicles of the occupants of the premises.

**GROUNDWATER:** Water that collects or flows beneath the earth's surface, filling the porous spaces in soil, sediment, and rocks.

**GROUP HOME OR HALFWAY HOUSE:** Transitional living place for those in recovery from drugs or alcohol, or convicted criminals to begin the process of reintegration with society. (See also Community Residence.)

**GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises with the principal building for the use by temporary guests of the occupants of the premises. Such quarters shall not have kitchen facilities nor be rented or otherwise used as a separate dwelling.

**HEALTH CLUB:** A building or space that houses exercise equipment and facilities for the purpose of physical exercise (i.e. courts), including locker rooms with shower facilities. (See also Fitness Center.)

**HISTORIC STRUCTURE, RECOGNIZED:** Buildings or structures that have been plaqued or designated as landmarks by any duly recognized federal, state, or local historic preservation agency/commission.

**HOME OCCUPATION:** Any business or commercial activity that is conducted in whole or in part in a dwelling unit and is clearly subordinate to the residential use.

**HOSPITAL OR SANITARIUM:** An institution open to the public in which patients or injured persons are given medical or surgical care; or for the care of contagious diseases or incurable patients.

**HOTEL OR MOTEL:** A building or portion thereof, or a group of buildings, that provides sleeping accommodations for tourists or transients on a daily or weekly basis, and may include meeting rooms or restaurants, whether such establishments are designated as a hotel, inn, motel, motor inn, motor lodge, or otherwise.

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

**HYDRIC SOIL:** A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.

**IDNR:** Illinois Department of Natural Resources.

**JELKES CREEK-FOX RIVER WATERSHED ACTION PLAN:** A plan prepared by Geosyntec Consultants and approved by the Village Board on September 17, 2013.

**JUNK YARD:** The use of more than 200 square feet of any lot where waste, scrap metal, paper, rags, or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

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

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

**LAND CONSERVATION ORGANIZATION:** A public or private organization having the statutory authority to hold conservation easements and/or own natural open space and with a demonstrated capacity to manage and oversee such areas.

**LEED:** The Leadership in Energy and Environmental Design Green Building Rating System developed by the U.S. Green Building Council.

**LINE OF BUILDING (For Measuring Yards):** A line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as being permitted to extend into a yard.

**LOADING AND UNLOADING SPACE, OFF-STREET:** An open paved area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor trucks, tractors, and trailers, to avoid undue interference with the public use of streets and alleys. Such space shall be not less than 10 feet in width, 45 feet in length and 14 feet in height, exclusive of access aisles and maneuvering space.

**LODGING OR ROOMING HOUSE:** A building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or to overnight guests.

**LOT:** The word lot when used alone shall mean a zoning lot unless the context of this Chapter clearly indicates otherwise.

**LOT, CORNER:** A parcel of land situated at the intersection of two or more streets or adjoining a curbed street at the end of a block. The front door location shall define the front yard.

**LOT COVERAGE:** The area of a zoning lot occupied by the principal building or buildings and accessory buildings.

**LOT DEPTH:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side front lines.

**LOT, FLAG:** A lot with access to the bulk of the property by means of a narrow corridor.

**LOT FRONTAGE:** The front of a lot shall be that boundary of a lot along a public street.

**LOT, INTERIOR:** A lot other than a corner lot or reversed corner lot.

**LOT LINE, FRONT:** A street line that forms the boundary of the lot; the lot line that faces the principal entrance of the main building.

**LOT LINE, INTERIOR:** A side lot line common with another lot.

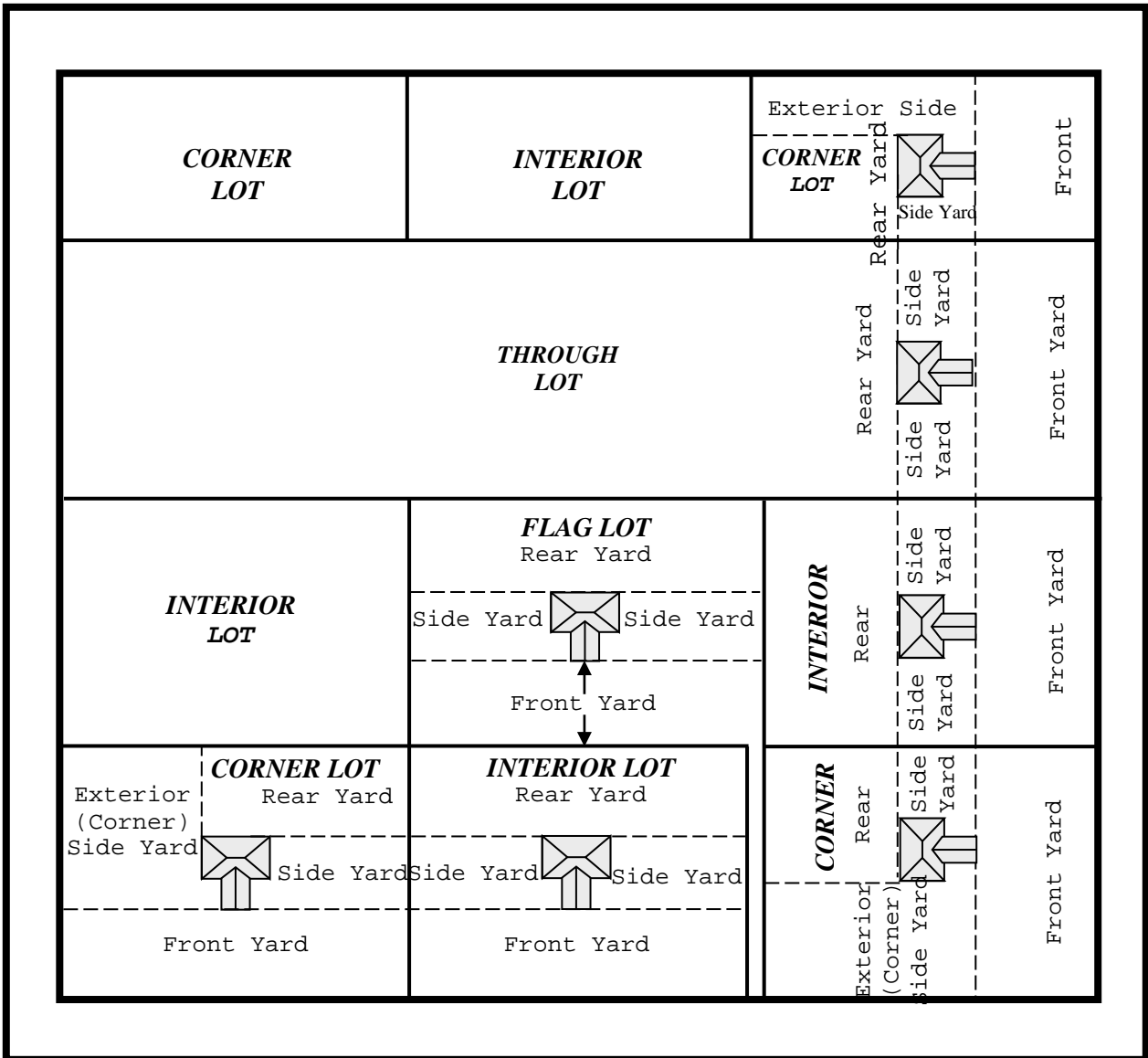
**LOT LINE, REAR:** The rear lot line is the lot line or lot lines most nearly parallel to and most remote from the front lot line.

**LOT LINE, SIDE:** Lot lines other than front or rear lot lines.

**LOT, REVERSED CORNER:** A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

#### **TYPES OF LOTS AND SETBACKS**





**LOT, THROUGH:** A lot having frontage on two parallel or approximately parallel streets, and that is not a corner lot. Also known as a “double frontage” lot.

**LOT WIDTH:** The horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building line, or following the curve of the street if on a cul-de-sac.

**MANUFACTURE:** The making of anything by an agency or process.

**MARINA:** A boating facility for the berthing and securing of all types of recreational water craft and which may include slip rentals, fuel facilities, boat and accessory sales, packaged food sales, restaurants, and hull and engine repair or boat building.

**MCCD:** McHenry County Conservation District.

**MEDICAL OFFICE OR CLINIC OR CENTER:** An establishment where human patients are admitted for diagnosis and treatment by licensed physicians, medical practitioners, and professional associates who may utilize jointly the same reception area, medical supply, laboratory, auto parking

and other physical accommodations, not including massage therapists or optometrists when associated with a retail eyewear store.

**MEDICAL CANNABIS CULTIVATION CENTER:** A facility operated by an organization or business that is registered by the State of Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.

**MEDICAL CANNABIS DISPENSING ORGANIZATION OR DISPENSARY:** A facility operated by an organization or business that is registered by the State of Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients.

**MOTOR FREIGHT TERMINAL:** A building in which freight, brought to said building by motor truck, is assembled and sorted for routing in intrastate and interstate shipments by motor truck.

**MOTOR VEHICLE REPAIR, MAJOR:** Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair, and overall painting of vehicles.

**MOTOR VEHICLE REPAIR, MINOR:** Incidental repairs, replacement of parts and motor service to vehicles, but not including any operation specified under Motor Vehicle Repair, Major herein.

**MOTOR VEHICLE SERVICE STATION OR GAS STATION:** A place where gasoline, stored only in underground tanks, kerosene, lubricating oil or grease for operation of vehicles is offered for sale directly to the public, on the premises and including minor accessories and services for vehicles, including minor motor vehicle repairs and washing of motor vehicles where a mechanical device is employed.

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

**MUNICIPAL FACILITIES/UTILITIES:** Any building, structure, or appurtenance thereto, open space or parcel of property owned or leased by the Village, allowed in any use district.

**NATIVE PLANTS:** Any plant that has not been introduced into the area. Native plants are well adapted to the environment and provide beneficial improvements to the fertility of the soil, can survive but the most severe drought, capture and retain precipitation, and increase the rate of infiltration. These native plants also provide habitat for wildlife.

**NATURAL AREA:** Natural areas can consist of any of the following features: woodlands, savannas, wetlands, steep slopes, groundwater recharge areas, floodplains, habitat areas for rare, threatened or endangered species, and similar features.

**NATURAL AREA RESTORATION:** The act of restoring or re-establishing a natural area back to its natural state, function, and species.

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

**NATURAL LANDSCAPING:** Landscaping using plants and materials that are naturally found in that location; native species.

**NIGHTCLUB:** An establishment serving food and/or liquor and providing music and space for dancing by patrons only. A nightclub shall not include an “Adult Business.”

**NON-CONFORMING USE:** Any building, structure, or land lawfully occupied by a use or lawfully established at the time of the adoption of this Chapter or amendments hereto that does not conform, after the passage of this Chapter or amendments hereto, with the use regulations of this Chapter.

**NOXIOUS MATTER:** Matter that is capable of causing injury or illness to living organisms or is capable of causing detrimental effects to the health or the psychological, social, or economic well-being of humans.

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

**NURSING HOME OR REST HOME, OR ASSISTED LIVING:** A system of housing and care that is designed for the aged or infirm or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness or injuries or for surgical care.

**OBSCENE:** Any material or performance is obscene if:

1. The average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
2. The average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions, or lewd exhibition of the genitals; and
3. Taken as a whole, it lacks serious literary, artistic, political or scientific value. [Statutory Reference: 720 ILCS 5/11-20]

**OLD TOWN DISTRICT (DOWNTOWN):** The traditional downtown district of the Village. The boundaries of the Old Town District are legally described as follows:

Commencing at the northeast corner of Section 33, Township 43 North, Range 8 East of the Third Principal Meridian for the place of beginning: thence westerly along the north line of said Section

33 a distance of 850.0 feet more or less to a point on Lot 17 of Huntington Hills Subdivision Unit No. 1; thence southeasterly 879.0 feet more or less to the southeast corner of Lot 21 of said subdivision; thence westerly along the southerly line of said Lot 21 of said subdivision 64.0 feet to a point; thence southeasterly 269.00 feet to the southeast corner of Lot 23 of said subdivision; thence westerly along the southerly line of said Lot 23 a distance of 326.36 feet to the northeast corner of Lot 24 of said subdivision; thence southeasterly a distance of 563.25 feet to a point which is 92.13 feet southeasterly of Lot 26 of said subdivision; thence easterly 90.00 feet more or less to the northwest corner of part of Outlot 1; thence southerly along the westerly line of Outlot 1 a distance of 193.89 feet; thence easterly along said Outlot 1 a distance of 65.48 feet to an angle point in said southerly line; thence southeasterly a distance of 179.50 feet to the easterly right of way of Huntington Drive; thence a distance of 604.81 feet to the westerly line of Outlot 2 of Huntington Hills Unit 1; thence southwesterly a distance of 202.28 feet to a point on the north line of Traube and Companies' Riverview Subdivision Tract No. 2; thence easterly along said north line a distance of 340.86 feet more or less to the easterly right of way line of State Route 31; thence southerly along said right of way line to the northeasterly right of way of Jayne Street; thence along the northeasterly right of way of Jayne Street a distance of 530.6 feet to the centerline of Willow Street; thence northeasterly along said centerline a distance of 270.0 feet more or less to the westerly shoreline of the Fox River; thence northerly along said westerly shoreline to the southwesterly right of way of the McHenry County Conservation District (Bike path); thence southeasterly along said right of way to a point which is 155.99 feet southeasterly of the easterly right of way of Hubbard Street extended southerly; thence northerly along a line which is 132.0 feet east of and parallel with the easterly right of way of Hubbard Street to a point of the centerline of Clay Street; thence northeasterly a distance of 456.0 feet to a point on the centerline of Ridge Street, said point being 136.09 feet east of the easterly right of way of Hubbard Street; thence northwesterly along the centerline of Ridge Street a distance of 166.09 feet to a point on the centerline of Hubbard Street; thence along the centerline of Hubbard Street northerly to the centerline of State of Illinois Route 62; thence easterly along said centerline to a point on the centerline of Highland Avenue; thence northeasterly along said centerline of Highland Avenue to the northerly right of way of Short Street; thence northwesterly along said northerly line a distance of 530.60 feet to a point on the westerly right of way of Hubbard Street; thence northeasterly along said right of way extended a distance of 377.30 feet to a point of the southwesterly line of Lot 8 of Algonquin Springs Subdivision; thence northwesterly along said southwesterly line a distance of 280.6 feet to the eastern right of way line of River Road; thence westerly to the southeast corner of Lot 1, Block 17 in Algonquin (original town) said point also being on the northern right of way of Edwards Street and the westerly right of way of North Harrison Street; thence northeasterly a distance of 663.00 feet more or less to a point on the southwestern line of Lot 3 in the Sunnyside Addition to Algonquin; thence northwesterly along said line 111.1 feet to the easterly right of way of State Route 31; thence northeasterly along said right of way 453.82 feet more or less to the southeasterly corner of Park Street and Pioneer Road; thence along the southeasterly right of way of Pioneer Road; thence 324.64 feet more or less to the northeasterly line of Brook Street; thence continuing along said easterly right of way of Pioneer Road extended a distance of 311.57 feet to a point on the southwesterly right of way of Indian Trail; thence northwesterly along said right of way a distance of 18.40 feet; said point being the northwesterly corner of the Getzelman Melahn Subdivision; thence along the northwesterly line of said subdivision a distance of 254.98 feet; thence northwest 30.0 feet along said subdivision line; thence 193.7 feet to the southeasterly right of way of Pioneer Road, also being the southwesterly corner of Merrill and Companies' Algonquin Hills Unit No. 3; thence northwesterly along said subdivision line a distance of 213.1 feet more or less; thence northeast a distance of 220.0 feet more or less to a point of the southerly line of the cemetery; thence easterly along said southerly line a distance of 367.28 feet; thence northerly along easterly line of said cemetery 296.98 feet easterly to

a point 24.1 feet west of the westerly right of way of Beachway Drive; thence northeasterly at right angles to said right of way 60.0 feet to the easterly right of way of Beachway Drive; thence 333.27 feet more or less to the centerline of Algonquin Cary Road, said point being the south line of Merrill and Companies Algonquin Hills Unit 1; thence westerly along said subdivision line 1092.1 feet to a point on the northerly line of Merrill and Companies Algonquin Hills Unit 4; thence south 275.0 feet to the northerly right of way of Willow Lane; thence westerly along said northern line 140.0 feet to the easterly right of way of Oak Street; thence southerly along said easterly right of way a distance of 190.0 feet; thence easterly a distance of 150.0 feet; thence southerly a distance of 130.0 feet to the north right of way of Maple Avenue; thence easterly along said right of way a distance of 171.78 feet to the westerly right of way of State Route 31; thence southerly along said westerly line to the southeast corner of Outlot C of Arrowhead Hills; thence northwesterly along southerly line of said subdivision 116.5 feet to the northeast corner of Lot 3 of Arrowhead Hills 1<sup>st</sup> Addition; thence southwestwardly along said subdivision 165.1 feet to the southeast corner of Lot 3 of said subdivision; thence northwesterly 48.3 feet to the northeast corner of Lot 4 of said subdivision; thence southwestwardly 198.17 feet to a point on the northerly line of Algonquin (original town); thence northwestwardly along said line to the southeasterly right of way of Mound Street; thence southwestwardly along said right of way to the northerly right of way of Chicago Street (Algonquin Road); thence northwestwardly along said right of way to the south line of the southwest quarter of Section 27, Township 41 North, Range 8 East of the third principal meridian; thence westerly along said section line to the place of beginning, located within the Village of Algonquin, Illinois.

And commonly described as: Commencing with the southern edge of Greenwood Avenue from Cary-Algonquin Road to Route 31 (Main Street), encompassing both sides of Cary-Algonquin Road to its terminus at Route 31, and encompassing both sides of Route 31 south to Jayne Street; all parcels on both sides of Edward Street from its westward terminus at the boundary of the R-1 zoning district to its terminus at the Fox River and following the Fox River as a boundary south to the eastern side of Willow Street and all property located westerly of Route 31, and all property located westerly to Route 31; all property located within the I-1 zoning district adjacent to the MCCD bike path north to the boundary of the R-1 zoning district at its terminus with Algonquin Road, and all property located easterly to Route 31; all parcels south of the R-2 zoning district boundary line on to the east side of the Fox River from the Fox River east to the east side of Hubbard Street and then south to the MCCD bike path.

**OPEN SPACE:** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for passive or active recreational use, including detention areas, retention areas, and wetlands.

Also, undeveloped land within a conservation design development that has been designated, dedicated, reserved or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents/tenants of the development. Open space shall not be part of individual residential lots.

**OPERATOR:** For purposes of an Adult Business, as defined herein, any person (whether said persons be an individual, partner, corporation, joint stock company, fiduciary, officer, director, stockholder, employee, or manager), who conducts, maintains or owns any Adult Business.

**OUTDOOR STORAGE:** The keeping, in an unroofed area, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours.

**OVERLAY DISTRICT:** A district that acts in conjunction with the underlying zoning district or districts.

**PARKING AREA, PRIVATE:** An open paved area of land, other than a street or public way, designed, arranged, and made available for the storage of private passenger vehicles only of occupants of the building or buildings for which the parking area is developed and is accessory.

**PARKING AREA, PUBLIC:** An open paved area, other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under 1½-ton capacity, and available to the public whether for compensation, free or as an accommodation to clients or customers.

**PARKING SPACE:** Space within a public or private parking area that shall measure 9 feet by 18 feet, exclusive of access drives or aisles, ramps, columns or office and work areas, for the storage of one motor vehicle under 1½-ton capacity.

**PATRON:** For purposes of an Adult Business, any customer, patron, or visitor to an Adult Business who is not employed by any operator of said establishment.

**PAYDAY ADVANCE:** A facility that is not a bank or currency exchange, rather a business that offers check cashing services or payday loans to customers.

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

**PLANNED DEVELOPMENT (PLANNED UNIT DEVELOPMENT), (PUD):** A planned development is a tract of land that is developed as a unit under single ownership or control, that includes two or more principal buildings and that may not completely conform to all of the regulations of the zoning district in which it is located. The development of a “planned development” shall be according to regulations as hereinafter set forth.

**PLANNING AND ZONING COMMISSION:** See Chapter 18 of this Code.

**PORTABLE STORAGE CONTAINER:** A self-storage container that is delivered to and retrieved from a home or business for long-term off-site storage or on-site storage. Portable On Demand Storage, or PODS, is a familiar trade name for such containers. These containers are not on a chassis and do not have axles or wheels.

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

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

**PUBLIC UTILITY:** Any person, firm, corporation or municipal department duly authorized to furnish, under public regulation to the public, electricity, gas, steam, telephone, cable, transportation, potable water, or sanitary sewage disposal.

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

**RECREATIONAL VEHICLE:** Any boat, boat trailer, water craft, snowmobile, motorcycle, all-terrain vehicle, air craft, trailer, any camping trailer, travel trailer, pickup, coach, motor home, mini motor home, truck camper, or van camper, or other unit built or mounted on a vehicle or chassis, without permanent foundations, that may legally be driven or towed by motor vehicles or vehicles used primarily for recreational purposes.

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

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

**SATELLITE DISH ANTENNA:** A parabolic or dish-type antenna or any circular, rectangular, concave, or similarly shaped antenna, solid or open-web in construction, designed for receiving communications, radio, television, data, or other signals from a satellite or other source, or for transmitting such signals to a receiving station, or both. For the purposes of this definition, a “miniature satellite dish” shall mean any satellite dish antenna that has a diameter or width of less than 25 inches, and a “regular satellite dish” shall mean any satellite dish antenna that has a diameter or width of 25 inches up to a maximum of 10 feet.

**SAVANNA:** Landscapes with between 10 and 50 percent native tree canopy, commonly dominated by oak trees. (Savanna structure was regularly affected by fires set by Native Americans prior to the arrival of European settlers.)

**SELF-STORAGE, MINI WAREHOUSE:** A building or buildings in a controlled access area that contain varying sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of a customer’s goods or wares.

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

**SENSITIVE NATURAL RESOURCE:** Resources include streams, wetlands, trees, fens, bogs, woodlands, groundwater recharge areas, lakes and ponds.

**SEXUAL CONDUCT:** Ultimate sex acts (whether auto-erotic, heterosexual, homosexual, or otherwise), bestiality or sadomasochistic activity. In addition, physical contact, intended to stimulate or arouse sexually the initiator and/or the recipient, with a person’s unclothed genitalia, buttocks, perineum, anal or pubic regions, or female breast.

**SIGN:** See Chapter 29, Sign Code, of this Code.

**SITE COVERAGE:** Site coverage is the amount of building footprint and impervious surfaces on the lot divided by the lot size.

**SOIL SURVEY:** The document was created by the U. S. Department of Agriculture's Natural Resources Conservation Service that records soil types with maps and describes soil characteristics.

**SPECIAL USE:** Any use of land or buildings or both, described and permitted herein, subject to the provisions of Section 21.12 herein.

**STEEP SLOPES:** Land slopes equal to or greater than 12 percent.

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

**STORY, HALF (HALF STORY):** A half-story is that portion of a building under a gable, hip, or mansard roof, the wall plates of which, on at least two opposite exterior walls, are not more than 4½ feet above the finished floor of such story. In the case of one-family dwellings, two-family dwellings and multiple-family dwellings less than three stories in height, a half-story in a sloping roof shall not be counted as a story for the purpose of this Chapter. In the case of multiple-family dwellings three or more stories in height, a half-story shall be counted as a story.

**STREET:** A public way other than an alley.

**STREET LINE:** A line separating an abutting lot, piece, or parcel, from a street.

**STRUCTURAL ALTERATIONS:** Any change other than incidental repairs that would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams, or girders.

**STRUCTURE:** Anything constructed or erected which requires location on the ground or is attached to something having location on the ground.

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

**SUSTAINABLE DEVELOPMENT:** Development that enhances people's well-being within the environment's capacity.

**TAVERN:** A building where alcoholic liquors are sold to be consumed on the premises.

**TERRACE, OPEN:** A level and rather narrow plane or platform open to the sky that, for the purpose of this Chapter, is located adjacent to one or more faces of the principal structure and that is constructed not more than 4 feet in height above the average level of the adjoining ground.

**TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes, including self-



supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**TRUCK PARKING AREA OR YARD:** Any land used or intended to be used for the storage or parking of trucks, tractors, truck trailers, including commercial vehicles, while not loading or unloading.

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

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

**USED CAR LOT:** A zoning lot on which used motor vehicles, such as cars, trailers, or trucks, are displayed for sale or trade.

**VEGETATION ANALYSIS:** An identification and mapping of site vegetation conditions according to their natural ecological communities (e.g., prairies, savannas, woodlands, and wetlands) and/or man-made state (e.g., old field, cropland, turf, etc.). For natural areas, a vegetation analysis also involves a concise, qualitative analysis of ecological quality.

**WATERSENSE (WaterSense):** A U.S. Environmental Protection Agency program designed to encourage water efficiency in the United States through the use of a special label on consumer products.

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

**WETLAND ENHANCEMENT:** The improvement in wetland functional value of an area currently meeting the technical definition of a wetland.

**WETLAND RESTORATION:** The reintroduction of wetlands to an area where wetlands existed historically (e.g., on drained hydric soils) but not prior to the mitigation activity.

**WOODLANDS:** Landscapes with native tree canopy covering more than 50 percent of the surface area. (Some portions of native woodlands were regularly affected by ground fires set by Native Americans prior to the arrival of European settlers.)

**WOODS CREEK WATERSHED-BASED PLAN:** Plan prepared by Applied Ecological Services, Inc., and approved by the Village Board on September 17, 2013.

**YARD:** An open space on the same zoning lot with a principal building or group of buildings that is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this Chapter, and that extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district on which the zoning lot is located.

**YARD, EXTERIOR SIDE (CORNER YARD):** On a corner lot the side yard immediately adjoining a public street not otherwise defined as the front yard.

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

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

**YARD, SIDE:** That part of the yard lying between the nearest line of the principal building and a side lot line and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.

**ZONING ADMINISTRATOR:** The Zoning Administrator who is designated by the Village Manager and is responsible for making interpretations of this Chapter as necessary.

**ZONING ENFORCEMENT OFFICER:** The Zoning Enforcement Officer is the Building Commissioner and is responsible for enforcing this Chapter.

**ZONING LOT:** A plot of ground made of one or more parcels that is or may be occupied by a use, building, or buildings, including the open spaces required by this Chapter.

**ZONING MAPS:** The map or maps incorporated into this Chapter as a part hereof designating zoning districts.

**Section 21.4**  
**GENERAL PROVISIONS**

- A. ZONING MAP.** The locations and boundaries of the districts established herein are shown upon the zoning map, which is hereby incorporated into this Chapter. The zoning map, together with all notations, references, and other information shown thereon, and all amendments thereto, shall be a part of this Chapter and shall have the same force and effect as if the zoning map, together with all notations, references, and other information shown thereon, were fully set forth and described herein.
- B. NEW OR ANNEXED LAND.** Submerged land heretofore reclaimed, or that may be reclaimed hereafter, and land heretofore annexed or that may be annexed to the Village hereafter, and that is not shown on the zoning map made a part of this Chapter, shall be classified the R-1 E One-Family Dwelling District until such time as the Village Board designates the permitted use of the land in accordance with the provisions of this Chapter.
- C. ZONING OF STREETS, ALLEYS, AND PUBLIC-WAYS.** All streets, alleys, and public ways, if not otherwise specifically designated, shall be deemed to be in the same zoning district as the property immediately abutting upon such alleys, streets, and public ways. Where the centerline of a street, alley, or public way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.
- D. BOUNDARY LINES.** Wherever any uncertainty exists as to the boundary of any use district as shown on the zoning map incorporated herein, the following rules shall apply.
1. Where district boundary lines are indicated as following streets, alleys or similar rights-of-way, they shall be construed as following the centerlines thereof.
  2. Where district boundary lines are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.
- E. SCOPE OF REGULATIONS.** No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which the building or land is located.
- F. PERMITS.** No application for a building permit or other permit or license or for a certificate of occupancy shall be approved by the Building Commissioner, and no permit or license shall be issued by any other Village department that would authorize the use or change in use of any land or building contrary to the provisions of this Chapter, or the erection, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this Chapter. That site construction, utility installation, and grading shall not commence until a Site Development Permit has been issued by the Village, all off-site and on-site utilities serving the subject property shall be underground, and water and sanitary sewer permits have been issued by the Illinois Environmental Protection Agency.
- G. BUILDING HEIGHT, BULK, AND LOT COVERAGE.**

1. No building shall be erected, reconstructed, relocated, or structurally altered so it has a greater height, a higher ratio of lot coverage, or smaller open space about it than permissible under the limitations set forth herein for the district in which such building is located, except that parapet walls, chimneys, cooling towers, elevator bulkheads or stacks, and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the Village.
2. No space allocated to a building or dwelling group for the purpose of complying with the side, rear, or front yard or court or other open space or lot area requirements of this Chapter shall thereafter, by reason of change in ownership or for any other reason, be used to satisfy the yard, court, open space, or lot area requirements of any other building or dwelling group.
3. An open terrace, but not including a roofed-over porch or terrace, may occupy a front yard, provided the unoccupied portion of the front yard has a depth of not less than 15 feet. A one-story bay window may project into a front yard not more than 3 feet. Overhanging eaves, including gutters, may project over the minimum required side yard not more than 18 inches.
4. No usable open space or off-street parking space or loading space existing or provided hereafter for any building shall be reduced below the minimum requirements hereinafter set forth for such usable open space, parking space, or loading space, nor further reduced if already less than the minimum requirements.

#### **H. LOT AREA AND DIMENSION.**

1. When two or more parcels of land, any of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the zoning district in which they are located are contiguous and are held in one ownership, they shall be used as one zoning lot for such use. Prior to the issuance of any permit, the property owner shall designate the lots as one lot with a Plat of Re-subdivision.
2. Any single lot or parcel of land that does not meet the requirements for a minimum lot width and area may be utilized for a permitted use provided that the yards, courts, and usable open space are not less than 75 percent of the minimum required dimensions or areas. All lots created after the adoption of this Chapter must meet the areas required of the zoning district in which they are located.

#### **I. LOCATION OF BUILDINGS AND ACCESS TO PUBLIC STREETS.** Except as otherwise approved by the Village Board, as part of a planned development, every building shall be constructed or erected upon a lot or parcel of land that abuts a public street as defined by the district in which the structure is located.

#### **J. BUILDINGS UNDER CONSTRUCTION.** Nothing in this Chapter shall be deemed to require any change in the plans, construction, or designated use of any building for which a building permit has been lawfully granted prior to the effective date of this Chapter or of amendments hereto, and said building may be completed in accordance with the approved plans, provided construction is started within six months of the issuance of the building

permit and diligently carried out to completion. Such building shall be subject to the provisions of Section 21.14, Non-Conforming Buildings and Uses, herein.

- K. BUILDINGS ON A ZONING LOT.** Every building hereafter erected or structurally altered to provide dwelling units shall be located on a zoning lot as herein defined, and in no case shall there be more than one such principal building on one zoning lot.
- L. UNDERGROUND UTILITIES.** Underground utilities, including telephone and electric systems, are required within the limits of any new development. Appurtenances to these systems, that can be effectively screened may be excepted from this requirement if the Planning and Zoning Commission finds that such exemption will not violate the intent or character of the development.
- M. USES NOT SPECIFICALLY LISTED.** Uses not specifically listed are to be determined by the Zoning Administrator.
- N. ENDANGERED SPECIES CONSULTATION PROGRAM.** Before any property is rezoned from open space or agriculture, or any petition for a planned development or a special use permit is approved, the property shall be subject to the Illinois Endangered Species Protection Act (520 ILCS 10/1 *et seq.*) that requires the submittal of an Ecological Compliance Assessment Tool (EcoCAT).

Any IDNR response to the EcoCAT shall be submitted with the application.

In the event the IDNR concludes there will be an adverse impact, the petitioner shall attempt to avoid, minimize, or compensate for the impacts pursuant to the IDNR recommendations. The required written report to the IDNR outlining what alternatives in the IDNR EcoCAT will be adopted, shall be submitted to the Village.

- O. LAND USE OPINION APPLICATION.** Before any property located within Kane County is rezoned from open space or agriculture, or any petition for a planned development or a special use permit is approved, the Land Use Opinion Application for the Kane-DuPage Soil and Water Conservation District shall be followed. The application is found in the Development Application available from the Community Development Department or online at [www.algonquin.org](http://www.algonquin.org).
- P. PERFORMANCE STANDARDS.** Performance standards set forth herein are established to protect the public health, safety, comfort, convenience, and the general welfare of the Village, and to promote a more desirable environment in which to live and work within the Village. No Village building permit shall be issued until the appropriate local, state, or federal agencies have issued all necessary permits for the particular use.
  - 1. **MATERIALS.** Any production, processing, cleaning, services, testing, repair, or storage of materials, goods, or products that could be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust or other particulate matter, toxic, or noxious materials, odors, fire, or explosive hazards, glare or heat, are not allowed.

2. **ODORS.** The emission of odorous matter in such quantity that is readily detectable at any point along a lot line or produces a public nuisance or hazard beyond a lot line is prohibited.

3. **OPEN BURNING.** Refer to Section 43.08, Open Burning and Recreational Fires, of this Code.

4. **EMISSIONS.** All uses shall conform to the requirements governing the emission of noise, vibration, smoke and particulate matter, water or other effluents, toxic or noxious matter, fire, glare, heat or radiation, as cited in the Environmental Protection Act, 415 ILCS 5/1 *et. seq.*, as amended.

**Q. OTHER CODES.** In addition to the Algonquin Comprehensive Plan, as amended, reference to the other chapters of this Code shall be made for specific requirements not contained herein.

BULK CHART												
Zone	Use	Lot Size		Yard Setbacks				Bulk Limits				
		Minimum Area Square Feet	Minimum Width Feet	Minimum Front Yard Feet	Minimum Rear Feet	Minimum Side Yard Feet (one yard)	Abutting Residential Feet	Lot Coverage Percent	Height of Principal Use		Minimum Dwelling Unit Size One Story/Two Story Square Feet or FAR	
				*1		*2			Feet	Stories		
	<b>Residential</b>											
R-1	One-family dwelling	10,000	75	30	30	7.5			25	2.5	1,400 / 1,600	
R-2	One-family dwelling	8,700	66	30	30	7			25	2.5	1,000 / 1,200	
R-3	Two-family dwelling	10,000	75	30	20	7.5			25	2.5	1,000 per unit	
	One-family dwelling	14,000	80	30	20	8			25	2.5	1,200 / 1,400	
R-4	Multiple-family dwelling	10,000 or 3,600/unit	75	20	20	7.5		35	45	3	900 unit	
	Additional stories after 2											+ 4
	One-family dwelling										1,200 / 1,400	
	Two-family dwelling										1,000 per unit	
	More than 2 units:											
	Efficiency											700
	One bedroom											900
Additional bedrooms											+ 150	
R-5	Multiple-family dwelling	10,000 or 2,400/unit	75	20	20	7.5		35	45	3	900 unit	
	Additional stories after 2											+ 4
	One-family dwelling								25	2.5	1,200 / 1,400	
	Two-family dwelling								25	2.5	1,000 per unit	
	More than 2 units:											
	Efficiency											700
	One bedroom											900
Additional bedrooms											+ 150	
R-1E	One-family dwelling	18,000	100	30	30	10			30	2.5	1,400 / 1,600	
R-1A	One-family dwelling	14,000	80	30	30	8			30	2.5	1,400 / 1,600	
	<b>Business</b>											
B-1	Business, Limited Retail			30	20	0	10 Side		35	3		
B-2	Business, General Retail			30	20	0	10 Side		35	3		
O-T	Old Town District			0	15	0						
OR&D	Office, Research & Development	150,000	250	*4	40	30		70	75*7	6	0.5	
	<b>Industrial</b>											
I-1	Industrial, Limited			25	0	30	30 Rear 25 Side	60	45	3		
I-2	Industrial, General			0	0	30	30 Rear 25 Side		45	3		
B-P	Business Park	90,000	150	*4	40*6	30*6		80	45		0.4	
*1	Where lots comprising 40 percent or more of the frontage between two intersecting streets are developed with buildings having front yards with a variation of more than 15 feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage.											
*2	On corner lots, there shall be maintained a side yard of not less than 30 feet (20 feet for R-4 and R-5) on the side adjacent to the street, which intersects the street upon which the building or structure maintains frontage.											
*3	When lots within B-1 and B-2 are adjacent to and adjoining lots in an R district, all of which front upon the same street, between two intersecting streets, there shall be established the same front yard setback for all of the frontage as has been established in the R district. Exception: When existing buildings located in this district have already established a building line at the street line at a depth less than required above, then all new buildings may conform to the same building line, except for the first 50 feet of the B-1 or B-2 District frontage adjacent to the R district, whereupon there shall be provided a front setback of not less than 10 feet.											
*4	Front yard setbacks in the OR&D and B-P Districts shall be 75 feet on Randall Road; 50 feet on Huntley Road, Longmeadow Parkway, County Line Road, and Boyer Road; 40 feet on new collector roads; 35 feet on local roads or 25 feet with heavy landscaping.											
*5	When a building exceeds 35 feet in height the yard requirements shall be increased one foot for each additional foot of height.											
*6	Parking may encroach on the rear and side yard setbacks, provided a 10 foot landscape buffer is maintained.											
*7	No building within 300 feet of residential shall exceed 25 feet in height.											
*8	No rooftop structures shall exceed the maximum permitted building height in the district.											
	<b>PUD may alter setbacks, lot size and bulk limits, see specific PUD for requirements</b>											

Section 21.5 BULK CHART

**Section 21.6**  
**OLD TOWN DISTRICT (O-T DISTRICT)**

- A. PURPOSE.** The purpose and intent of this Section is to protect and enhance downtown Algonquin by permitting a variety of commercial, office, residential, and institutional uses in order to create a center of business, civic, and cultural activity consistent with the goals and objectives of the Downtown Algonquin Planning Study 2013. Furthermore, it is the intent of this O-T-Old Town District (O-T District) to:
1. Encourage the retention of a Village atmosphere by preserving and enhancing existing buildings and open spaces to the greatest extent possible.
  2. Promote development that minimizes land disturbance and incorporates compact, efficient design.
  3. Encourage the retention of existing buildings by permitting a variety of commercial, office, and residential uses that are compatible with the existing structural types, lot sizes, and other physical and visual characteristics of the O-T District.
  4. Discourage development of strip-type, highway-oriented commercial uses that require incongruous architectural styles, excessive paved areas, and numerous curb cuts.
  5. Encourage the retention of the O-T District atmosphere by preserving existing buildings to the greatest extent possible. Allow the redevelopment of functionally obsolete and dilapidated buildings into new commercial developments that are designed in compliance with the Downtown Algonquin Planning Study 2013.
  6. Encourage consolidation of driveways, parking, and curb cuts to provide more efficient and economical access and parking.
  7. Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the O-T District.
  8. Discourage commercial developments that attract large volumes of vehicle traffic and continuous customer turnover.
  9. Encourage the formation and continuance of business and professional offices intermingled harmoniously with residences and certain other commercial areas.
  10. Permit uses that allow conversion of existing buildings in a manner that maintains the visual character and architectural scale of existing development within the O-T District.
  11. Encourage a coordinated pedestrian path system to provide efficient, pleasant, and convenient pedestrian access from parking areas to and among the various permitted uses.



**B. APPLICABILITY.** All properties in the Old Town, as defined herein, that involve a redevelopment or involve a petition for a planned development, shall be rezoned to O-T District. Residential properties in the O-T District that are not rezoned to O-T District and that have an underlying residential zoning district shall be governed by those underlying district regulations, except for those provisions contained in Section 21.6. L herein.

**C. PERMITTED USES.** Permitted uses in the O-T District shall include the following:

1. **Professional Offices.** Offices for lawyers, engineers, architects, accountants, e-commerce, government, and other similar professional businesses.
2. **Retail Specialty Shops.** Sale of gifts, antiques, flowers and plants, books, art galleries, jewelry, pharmaceuticals, housewares, hardware, sporting goods, wearing apparel, tobacco and related supplies, or craft shops making articles exclusively for sale for retail on the premises; and the retail sale and repair of jewelry, clocks, optical goods, cameras, and their accessories.
3. **Eateries.** Restaurants without drive-through facilities, bakeries, confectioneries, coffee houses, cafes, bars, taverns, pubs, and delicatessens.
4. **Personal service shops.** Barbershops and/or hairdressers, shoe repair, tailor, and similar services.
5. **Studios.** Studios for dance, music, photography, art, and similar uses, including fitness centers.
6. **Residential.** Dwelling units above the ground floor as secondary uses to primary commercial and office uses.
7. **Churches.** See Section 21.12, Special Uses herein for specific criteria.
8. **Brewery, Winery, Distillery.** Open to the public with a retail component.

**D. PROHIBITED USES.** In support of the general intent of this Section, the following uses, except for legal non-conforming uses, shall be prohibited:

1. Automobile or other vehicle sales, service, and/or repair businesses.
2. Gasoline service/filling stations.
3. Drive-through facilities.
4. Car washes.
5. Building supplies and bulk storage.
6. Rental storage facilities including mini-warehouse facilities.
7. Uses requiring outdoor sales and storage areas.

8. Palmists, tattoo parlors, piercing studios, and any adult business activities as defined in Section 21.3 herein.
9. Uses of a similar nature to the uses listed within Section 21.6-D.

**E. SETBACK REQUIREMENTS.** See Section 21.5, Bulk Chart, herein.

**F. EMERGENCY ACCESS AND MAINTENANCE EASEMENT.** For all buildings constructed at or less than 10 feet from the side yard property line, an emergency access and maintenance easement, approved by the Village Attorney, shall be provided across the entire width of the side yard.

**G. ZERO-LOT LINE DEVELOPMENT.** In order to promote design efficiency and flexibility, development may be permitted to abut property lines in compliance with the following:

1. A building may be located along one, two, or three abutting lot lines, may share a party wall with one or two buildings, or it may be an independent, detached structure along one, two, or three abutting lot lines.
2. For an independent, detached structure to be permitted to be built along a property line, the property owners of both lots shall be required to enter into binding legal arrangements, approved by the Village Attorney, that include:
  - a. An easement to permit maintenance of the wall from the abutting lot; and
  - b. An agreement permitting construction of a future building attached to the abutting wall.

**H. ACCESSORY USE SETBACKS.** No accessory use shall be permitted within the front or side yards except for patio or sidewalk dining areas. The setback for accessory uses for the rear property line shall be 5 feet.

**I. MAXIMUM BUILDING HEIGHT.** No building shall exceed 3½ stories or 40 feet in height, unless the Village Board grants a variance as part of an approved planned development.

**J. HISTORIC SETBACKS.** The restoration or replacement of historic home features may be erected at setbacks less than required by this Section if historic photographs, building plans, or plats can, in the opinion of the Building Commissioner, prove that the original setbacks were less than what is now required by law. More restrictive regulations contained in Chapter 23, Building Codes, of this Code shall supersede any regulations contained in this Section.

**K. PARKING REGULATIONS.**

1. **Parking Setbacks.** Parking spaces, areas and driveways serving the spaces shall be set back a minimum of -5 feet from rear and side property lines unless common parking is shared with one or more abutting lots, in which case parking

may abut or cross the property lines shared by the common users. Shared parking will be permitted if:

- a. Access easements and maintenance agreements or other suitable legal mechanisms are provided and in a form acceptable to the Village; and
- b. Liability safeguards for all property owners and lessees served by the common parking area are provided and approved by the Village.

2. **Parking Lot Design Standards.**

- a. All parking spaces shall be set back a minimum of -5 feet from all buildings.
- b. All required parking shall be paved and designed consistent with Chapter 26, Site Plan and Development Review Requirements, of this Code.
- c. No parking shall be allowed in the front yard.
- d. Parking shall only be allowed in the side yard if the physical character of the property, including dimensions or topography, or by other extraordinary situation or condition of such property precludes the parking area from being located in the rear yard.

3. **Parking Capacity Regulations.** The minimum number of off-street parking spaces required shall be determined by application of the standards outlined below or in Chapter 26, Site Plan and Development Review Requirements, of this Code. In no case shall less than three off-street parking spaces be provided for each individual nonresidential use. The number of uses in a building shall equal the number of leasable units in the building, including owner-occupied units. Parking shall be provided for each use in a mixed-use development. Minimum parking for a residential dwelling shall be two spaces per dwelling unit, unless a credit is given for nearby on-street or public parking lots.

4. **Parking Held In Reserve.** If the number of parking spaces required is substantially larger than the number anticipated by the applicant, the parking-held-in-reserve concept may be utilized to avoid unnecessary paving, in accordance with the following criteria:

- a. The total number of spaces, which must be provided initially, may be reduced by up to 50 percent as determined by the Community Development Department.
- b. Suitable area must be available and reserved for construction of the balance of the total number of spaces otherwise required. In addition, a re-evaluation of parking capacity shall be required upon a change in status (use, building addition or number of employees). Following the re-evaluation, the property owner may be required to install the additional parking spaces.

5. **Cash In Lieu of Parking Spaces.** If there is no room to accommodate the additional parking on site, then the developer may buy parking credits. The developer must pay the Village \$5,000 per parking space that cannot be provided on the subject property. The cash will be kept in an escrow account by the Village for the future improvement of public parking spaces in the O-T District. To qualify for the reserve parking concept, or the cash in lieu of parking option, the applicant shall provide evidence supporting reduced parking needs to the Community Development Department.
6. **Loading Zones.** Loading and unloading areas that do not conflict with pedestrian or vehicular movement shall be provided.
7. **Other Criteria.** Chapter 26, Site Plan and Development Review Requirements, of this Code, shall govern all other parking lot criteria not specifically outlined in this Section.

**L. BUILDING DESIGN, PURPOSE.** These design guidelines address the improvement of existing buildings as well as new construction, and are focused on promoting high quality and compatible building developments that will complement and enhance the existing scale and character of the O-T District. The purposes of the design guidelines below are to:

1. **Improve Buildings.** Improve the image and appearance of individual buildings.
2. **Preserve Historic Interest.** Preserve and retain buildings with architectural and historic interest.
3. **Promote Compatibility.** Promote more design compatibility among buildings and groups of buildings.
4. **Preserve District Image.** Ensure that new structures enhance the traditional image and identity of the Old Town District.
5. **Building Height.** Rehabilitation and new construction shall respect the existing scale of Downtown and avoid extreme differences in building height; two-story buildings shall predominate. Somewhat taller buildings may be appropriate adjacent to major intersections or at other selected locations, provided they are in character with the surrounding area. New one-story buildings are considered too small to maintain the urban character and street wall and shall be discouraged along Main Street.
6. **Building Bulk and Proportion.** Most older commercial buildings within the Downtown have relatively small footprints and are located on lots with narrow widths. New construction shall respect the existing scale and proportion of existing buildings. Architectural details on new buildings shall be used to help maintain the traditional scale and proportion of Downtown. These details include the size of windows, the location of doorways, and the design and placement of columns, pilasters, moldings, and other decorative features. Columns, pilasters, window placement, and other architectural features shall be used to subdivide the facades of new buildings into several smaller vertical segments to reflect the scale

and proportion of adjacent properties. Multiple storefronts that are part of the same building shall have complementary facade designs, particularly with respect to color, cornice line, and decorative materials.

7. **Building Placement and Orientation.** A portion of the Main Street shopping area is characterized by continuous rows of commercial buildings constructed at the sidewalk's edge. This development pattern creates a strong and distinctive street wall effect that creates visual interest, enhances the pedestrian environment, and establishes a human scale within the district. Setbacks throughout the Downtown shall be held to a minimum. In blocks where a street wall is already in place, new construction shall be positioned at or very near the sidewalk line. New construction shall also occupy the entire width of the lot. If buildings within certain blocks are set back from the sidewalk, setbacks shall be consistent throughout that block. Buildings shall front the street; the placement of buildings at odd or irregular angles to the street shall be avoided. While main entrances shall be at the front of the building and shall face the sidewalk, corner buildings should take advantage of their prominent locations with recessed or angled corner entrances. Any breaks in the street wall shall be used for open space, plazas, public art or pedestrian ways. Where building setbacks and parking exist along primary shopping streets, the street wall shall be maintained through the use of landscaping, pedestrian amenities, and decorative walls or fencing.
8. **Architectural Style.** Downtown Algonquin has been developed over a period of many years and its buildings reflect a variety of architectural styles. While overall design compatibility shall be promoted, architectural diversity shall be encouraged and enhanced. New buildings need not be historic replicas, but shall offer high-quality and compatible interpretations of the predominant styles now present within the Downtown. Building improvements and additions shall reinforce and enhance the original architectural characteristics of a building rather than apply new or different stylistic treatments. The distinguishing features of Downtown's older buildings shall be retained and restored as required, particularly decorative cornices, columns, reliefs, and other significant facade detailing. Where original features have been covered up, buildings shall be closely examined and old photographs reviewed (if they are available) prior to undertaking significant improvements. Developers are encouraged to review the Algonquin Historic Commission archives illustrating specific properties and buildings.
9. **Building Materials.** The building materials most common within Downtown are earth-toned brick and stone in the red and buff color ranges. Ceramic tile and terra-cotta are also used as ornamentation around doors, windows and cornices. New buildings shall be constructed of traditional building materials such as brick or stone. Whenever possible, original building materials shall be maintained and restored. New materials, including the color, size and finish of brick and stone, shall be compatible with older existing materials; new mortars shall also be compatible in color and texture. The use of EIFS and similar exterior surface materials shall be discouraged; in particular, these materials shall not be used to conceal or cover up important existing features of a building's façade. Aluminum siding, exposed concrete block and plastic panels shall not be used.

10. **Doors and Entrances.** The front doors of new buildings shall reflect the doorway placements and proportions of existing buildings along the same block. New doors shall be compatible with the architectural style and character of the façade. Entrances shall be clearly identified and emphasized with address numbers and attractive doorway detailing. Recessed entrances are encouraged.
11. **Windows.** The size and placement of windows on new buildings shall reflect the window types, sizes, proportions, and patterns on nearby existing buildings. Ground floor display windows are encouraged. Blank walls shall be avoided, particularly next to pedestrian walkways. Where existing windows are important architectural features in a building's facade, window size and configuration shall be maintained. Window glazing shall be clear or slightly tinted, not dark or reflective.
12. **Rear Yards and Facades.** Rear entrances to stores are strongly encouraged, particularly in blocks where public parking or pedestrian walkways are located behind the buildings. Rear entrances to stores and shops shall be attractive, safe, and inviting and shall be characterized by design treatments that are comparable to front entrances.
13. **Rooflines and Parapets.** New buildings shall reflect and complement the established rooflines and cornice treatments of adjacent buildings. The original roofline and cornice treatment of existing buildings shall be maintained and restored. Roof parapets shall be encouraged to create an interesting building profile when combined with neighboring buildings; parapets shall extend above the roof to hide vents, coolers and other rooftop mechanical equipment. Sloped mansard, shake or shingle roofs shall not be allowed for new commercial buildings unless approved by the Village Board as part of a planned development.
14. **Painting and Color.** The selection of colors on individual buildings shall complement the predominant hues of adjoining buildings. Color shall be used to unite the elements of a facade and to highlight important features like historic detailing, interesting design motifs, and special cornice treatment. The predominant color for most buildings shall be relatively subtle; the natural brick and stone colors of red, buff, cream, and gray shall predominate. Darker or brighter hues shall be used for accent or to draw attention to details such as doorways; very dark and very bright colors shall be avoided unless there is a clear historic precedent. Ceramic tile, terra-cotta, brick, stone, and glass surfaces shall not be painted.
15. **Awnings and Canopies.** Awnings and canopies shall be in character with the architectural style of the building. Awnings and canopies shall be positioned at least 8 feet above the sidewalk. Awnings shall fit within the frame of the storefront; they shall not hide the building's facade, distort its proportions, nor cover architectural features. Where several storefronts were developed as a single building, they shall have awnings of the same style and similar color. Adjacent buildings developed at different times shall have awnings of a compatible style and color scheme. Awnings shall be made of a canvas or durable fabric material that can be easily cleaned. Metal and barrel type awnings shall not be used.

Awning frames shall be an accessory to the building facade and not a permanent fixture. Shingle and mansard canopies shall not be permitted.

16. **Lighting.** Front and rear entries shall be adequately but not overly illuminated. Most exterior lighting sources shall be concealed; where concealment is not practical, light fixtures shall be compatible with storefront design. Warm LED lighting creates a warm atmosphere and shall be encouraged for store identification and accent lighting. Exterior spotlighting may be used to illuminate prominent buildings and/or building details.
17. **Signs.** All signs erected shall be consistent with Chapter 29, Sign Code, of this Code.

**Section 21.7**  
**RESIDENTIAL DISTRICTS**

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

1. To protect residential areas against fire, explosion, noxious fumes, offensive odors, noise, smoke, vibrations, dust, heat, glare, and other objectionable factors.
2. To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle traffic, especially through traffic, and to alleviate congestion by promoting off-street parking.
3. To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.
4. To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.
5. To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.
6. To provide sufficient space in appropriate locations to meet the probable need for future residential expansion and to meet the need for necessary and desirable services in the vicinity of residences that increase safety and amenity for residents and that do not exert objectionable influences.
7. To promote the best use and development of residential land in accordance with a comprehensive land use plan, to promote stability of residential development, and protect the character, desirable development, and protect the value of land and improvements and so strengthen the economic base of the Village.

**B. PERMITTED OBSTRUCTIONS.** The following shall not be considered obstructions when located within or over required yards, and in no case shall any permitted obstruction extend over the property line:

1. Terraces, provided the side yard is not reduced to less than 5 feet;
2. Awnings and canopies, provided the side yard is not reduced to less than 5 feet;
3. Chimneys not projecting more than 2feet provided the side yard is not reduced below 5 feet;
4. Steps not over 4 feet in height or ADA ramps;
5. Arbors and trellises;
6. Fences as defined and provided for in Section 15, herein;



7. Breezeways, open porches and decks (rear yards only); and
8. Open parking areas.

**C. SETBACK REQUIREMENTS.** See Section 21.5, Bulk Chart, herein.

**D. PERMITTED USES.** The following uses are considered permitted uses in the Residential dwelling districts.

RESIDENTIAL USE CHART							
USES	R-1	R-2	R-3	R-4	R-5	R-1E	R-1A
One-family Detached Dwelling	X	X	X	X	X	X	X
Home Occupations, as defined in Section 21.3 and regulated in Section 21.8	X	X	X	X	X	X	X
Gardening/Horticulture (no buildings or sales on site)	X	X	X	X	X	X	X
Temporary construction buildings, one year time limit	X	X	X	X	X	X	X
Public Parks and Playgrounds	X	X	X	X	X	X	X
Municipal Facilities and Utilities	X	X	X	X	X	X	X
Two-family Dwellings			X	X	X		
Attached Multiple Family Dwellings				X	X		
Homes originally constructed as single family may be remodeled to house not more than two families				X	X		
Multiple Family Dwellings and Apartments					X		
Churches, as regulated in Section 21.12			X	X			
Community Residences	X	X	X	X	X	X	X
Accessory Buildings, as regulated in Section 21.15	X	X	X	X	X	X	X
Off-Street Parking, as regulated in Chapter 26 of the Code	X	X	X	X	X	X	X
Planned Developments, as regulated in Section 21.11	X	X	X	X	X	X	X
Signs, as regulated in Chapter 29 of the Code	X	X	X	X	X	X	X

**Section 21.8**  
**HOME OCCUPATIONS**

**A. PURPOSE.** The conduct of business or commercial activity in dwelling units may be permitted under the provisions of this Section. It is the intent of this Section to:

1. Ensure the compatibility of home occupations with other uses permitted in residential zoning districts;
2. Maintain and preserve the character of residential neighborhoods;
3. Promote the efficient use of public services and facilities by assuring that services are provided to the residential population for which they were planned and constructed rather than provided to commercial uses; and
4. Prevent the generation of vehicular or pedestrian traffic in greater volumes than would normally be expected in a residential neighborhood.

**B. REQUIREMENTS.** Home occupations shall be a permitted use in all residential zoning districts, subject, however, to the following regulations:

1. **Incidental Use.** The use for the home occupation must be clearly incidental and secondary to the use of the dwelling unit as a residence. The Village's standard in this regard is that the home occupation should not ordinarily exceed 25 percent of the floor area of the dwelling unit.
2. **No Exterior Evidence.** There shall be no activity, structure, sign, or other exterior evidence that the dwelling unit is being used for any nonresidential purpose in order to conduct the home occupation.
3. **Employees.** No more than one person who is not a full-time resident of the dwelling unit shall be working at the home occupation dwelling unit at any one time. An off-street parking place shall be provided while the employee is on the premises.
4. **Origin of Goods.** Goods that are the subject of the home occupation may be fabricated or produced on the premises, as well as manufactured elsewhere (also known as "stock-in-trade"), subject, however, to further regulations herein.
5. **Displays.** No article or stock-in-trade shall be displayed so it is visible from the exterior of the dwelling unit.
6. **Limits on Deliveries.** No deliveries of raw materials, goods, supplies, or merchandise to the dwelling unit related to the home occupation shall be permitted by vehicles with a gross vehicle weight greater than 10,000 pounds.
7. **Customer Sales and Pick-Up.** Direct sales of products or services from the dwelling unit are prohibited, but a person may pick up an order placed earlier.
8. **Signage.** No sign may be used to identify the home occupation.

9. **Equipment.** No mechanical or electrical equipment shall be installed or maintained other than what is customarily incidental to a dwelling unit. No mechanical or electrical equipment shall be operated that interferes with the use and enjoyment of neighboring properties or indicates that the structure is being used for a non-residential purpose.
10. **Parking.** The conduct of the home occupation shall not require more vehicle parking space than exists on the residential drive on the property, or on assigned parking spaces servicing the dwelling unit. The conduct of the home occupation shall not reduce or render unusable any areas provided for required off-street parking, or prevent the number of vehicles intended to be parked in a garage from doing so. If a greater restriction on parking is imposed by any private covenants or homeowners' association declarations, then such covenants or declarations shall govern.
11. **Vehicle Use.** Parking and use of trucks or other vehicles associated with a home occupation, whether on private or public property, shall conform with regulations concerning parking and use of commercial vehicles in residential areas as delineated in this Chapter, the Code, or any other Village ordinance, including the establishment of load limits upon the streets of the Village. There shall be a limit of one vehicle that is associated with the home occupation. Vehicles used in a home occupation shall not have a higher class than "B" license plates and shall not exceed a gross vehicle weight of 8,000 pounds if parked at home.
12. **Nuisances Prohibited.** Home occupations shall not be operated in such a manner as to create or cause a nuisance. Examples of nuisances include, but are not limited to, the following:
  - a. Noise in excess of normal daily activity for a residential area, measured at the lot line of the premises, or exterior to party walls in attached single-family or multi-family dwelling units.
  - b. The emission of odorous matter, vibrations, smoke, dust, heat, or glare in such quantities as to be readily detectable at any point along lot lines, or exterior to party walls in attached single-family or multi-family dwelling units.
  - c. The creation of aesthetic problems or health hazards in the storing or disposing of refuse or waste materials emanating from the activity.
  - d. The creation of hazards that would or could endanger the dwelling unit or its occupants, or other structures, or their occupants, by reason of additional fire, health, safety, or environmental hazards.
13. **Health and Safety Requirements.** The person(s) engaging in the home occupation shall comply with all applicable regulations of the Community Development Department, Police Department, fire protection district, and other applicable agencies, including the right of inspection.
14. **Accessory Structures and Garages.** Accessory buildings or garages (attached or

detached) shall not be used exclusively or predominantly for a home occupation.

15. **Exterior Storage Prohibited.** There shall be no exterior storage of materials or products for a home occupation on the premises.
16. **Animal Care Services Prohibited.** Home occupations shall not involve the keeping or care of animals, birds, or reptiles on site. Incidental care of limited duration for a pet of a friend or neighbor shall not be deemed a home occupation.
17. **Human Care Services Limited.** Home occupations that involve human care services shall be limited to the keeping or care of humans for babysitting and day care services (subject, however, to the Illinois Compiled Statutes), and a limit of one station for beauty or hair care.
18. **Certain Home Occupations Prohibited.** Examples of occupations deemed to be prohibited home occupations include, but are not limited to, the sale of firearms, explosives or ammunition, gunsmith services, clinics, doctors' or dentists' offices, hospitals, restaurants or cafes of any type, boarding houses, animal hospitals, shelters, kennels, livery services, the repair and/or servicing of vehicles, salvage or recycling, tattooing, piercing, or massage therapy. A medical professional may use their dwelling unit for emergency consultation or treatment, but not for the general practice of their profession.

**Section 21.9**  
**BUSINESS DISTRICTS**

**A. PURPOSE.** The Business Districts set forth herein are established to protect public health, promote public safety, comfort, convenience and the general welfare, and protect and enhance the economic base of the Village and the value of property. These general purposes include, among others, the following specific objectives:

1. To promote the most desirable use of land in accordance with a well-considered plan so adequate space is provided in appropriate locations for the various types of business uses, thereby protecting and strengthening the economic base of the Village.
2. To place in separate districts those businesses that may create noise, odors, hazards, unsightliness, or that may generate excessive traffic.
3. To permit selected business uses in districts where adjacent to or inclusion in a residential area has sufficient elements of service or convenience to such areas to offset the disadvantage.
4. To encourage the grouping in appropriate locations of compatible business uses that will tend to draw trade that is mutually interchangeable and so promote public convenience and business prosperity and contribute to the alleviation of traffic and pedestrian congestion.
5. To provide for the establishment of off-street parking facilities, permitted and required, so traffic congestion is alleviated, which will promote shopping convenience and business prosperity.

**B. OUTSIDE SALES.**

1. **Outside Sales.** Notwithstanding the provisions of the this Section, the Village Board may grant a daily permit to conduct activities permitted in a Business District outside of an enclosed building. No more than three such daily permits shall be issued to any one business during a one-year period. A daily permit fee, found in Appendix B of the Code, shall be payable upon the issuance of a daily permit. Except as specifically provided herein, all requirements of this Chapter shall apply to activities conducted pursuant to this Section. Outside sales will be allowed for the business that occupies the building and will be allowed only for those items normally sold within the building. These sales must take place on the property where the building housing the associated business is located. These sales may not endanger public safety in any way or create a public nuisance.
2. **Seasonal Event Sales.** The Village may grant a Seasonal Event Sales Permit to conduct seasonal events outside of an enclosed building. These seasonal events, which shall include sales such as Christmas trees and pumpkins, as well as “sidewalk” sales, craft fairs, farmers’ markets and art fairs, may be conducted on sidewalks, parking lots, and vacant lots provided permission has been granted by the property owner.

In granting a Seasonal Event Sales Permit, the Village, shall determine how long the permit shall be valid. The Village at its discretion, may issue or deny the Seasonal Event Sales Permit and may impose any conditions as deemed appropriate. In no event shall a Seasonal Event Sale endanger public safety or in any way create a public nuisance.

A daily permit fee, found in Appendix B of the Code, shall be payable upon the issuance of the permit. The Manager may waive the fee for a not-for-profit organization.

Application for a Seasonal Event Sales Permit shall be made in writing at least 21 days prior to the event and shall contain the consent of the property owners. If application is made less than 21 days prior to the event, the permit can only be issued with the approval of the Manager. Both the applicant and the property owner, if different from the applicant, shall be responsible for compliance with all terms of this Chapter. The application shall contain a site plan, a time schedule for set-up and clean-up, parking and lighting plan, and indicate points of ingress, egress and traffic control, and indicate the type and location of fencing.

**C. FENCES.** Whenever a business abuts a residential district or a residential use, the owner of said business property shall be required to erect and maintain a board-on-board fence not less than 6feet in height to screen the business use from said residential district or residential use. The Village Board may allow the use of a landscaped berm treatment in lieu of a fence, if approved as part of a planned development. Fencing shall not be required in the Old Town District unless specified by the Village Board.

**D. ARCHITECTURAL STANDARDS.** Construction of all commercial buildings within a business district shall be constructed pursuant to the following architectural standards:

1. **Building Orientation.** The building shall be compatible with surrounding buildings to maintain the character of the area. Visual interest and pedestrian scale shall be considered in the site layout. The rear and sides of a building shall have architectural features similar in quality and design to the front of the building.
2. **Building Materials.** The building shall be full-dimensional face brick on all elevations provided they are visible to public areas. Other masonry materials may be considered if the building is over 50,000 square feet. Accent features may be other materials; however, the amount of EIFS, and standing seam metal should be limited. Architectural shingles, synthetic slate, or slate shall be used on roofs.
3. **Building Design.** Architectural features shall break up the building massing. The use of columns, brick patterns, windows, false windows, medallions, cornices, pilasters, quoins, decorative lighting, and protrusions must provide interest in the building elevations. The roofline must also be varied. A full pitch roof is preferred; however, other roof types will be considered. All mechanical equipment shall be screened from view on all sides of the building through the use of parapet walls or appropriate screening.
4. **Building Color.** The building color shall blend into surrounding buildings and the natural environment. The predominant color for most buildings shall be relatively

subtle; the natural brick or stone colors of red, gray, and brown shall predominate. Darker or brighter accent colors may be used provided they are not garish or overpowering. Brick, stone, glass, and tile surfaces shall not be painted. All service doors shall be painted to match the building. Window glazing shall be clear or slightly tinted, not dark or reflective. Building color schemes approved by the Village Board shall not be altered without prior approval from the Village Board through a planned development amendment process.

5. **Awnings and Canopies.** Awnings and canopies shall be in character with the architectural style of the building. Awnings and canopies shall be positioned at least 8 feet above the sidewalk. Awnings shall fit within the frame of the storefront; they shall not hide the building's façade, distort its proportions, nor cover architectural features. Where several storefronts are developed as a single building, they shall have awnings of the same style and similar color. Adjacent buildings developed at different times shall have awnings of a compatible style and color scheme. Awnings shall be made of canvas or a durable fabric material that can be easily cleaned. Awning frames shall be an accessory to the building façade and not a permanent feature.
6. **Pedestrian Amenities.** Street furniture (benches, trash receptacles, lighting, walkways, etc.) shall be considered when designing commercial centers and shall be required in certain developments. Bicycle racks shall be required for developments adjacent to bike paths. Bicycle racks shall be located near the entrances of buildings, convenient for riders to use.
7. **Shopping Carts.** Shopping cart corrals shall not have any advertising or roof structures. Shopping cart storage areas shall be inside the building or screened with a brick wall.
8. **Sustainable Designs.** Sustainable, environmental, designs are encouraged. These designs may include, but are not limited to, green roofs, electric vehicle charging stations, solar panels, permeable pavement, etc., and shall be reviewed by Village staff for compliance with local, state, and federal regulations.
9. **Refuse Containers.** All refuse and recycling containers shall be enclosed with a 6-foot tall brick surround to match the building with latchable wooden or metal gates. The materials stored within the enclosure shall not extend above the walls of the enclosure.

**E. SETBACK REQUIREMENTS.** See Section 21.5, Bulk Chart, herein.

**F. B-1 BUSINESS DISTRICT, LIMITED RETAIL.**

1. **Permitted Uses.** All activities, except for automobile off-street parking facilities as permitted or required in this B-1 Business District, Limited Retail, shall be conducted wholly in an enclosed building. The following uses are considered permitted uses in the B-1 Business District, Limited Retail:
  - a. Brewery, Winery, Distillery: Open to the public with a retail component.

- b. Financial Institutions: Banks, Savings and Loan, except such are not permitted on lots with frontage on Randall Road, West Algonquin Road, East Algonquin Road, and Longmeadow Parkway.
- c. Food Stores: Candy, Ice Cream, Dry Goods, Meat Markets, Liquor.
- d. Municipal Facilities/Utilities.
- e. Offices: Business and professional, in a one- or two-story building. Medical offices require a Special Use Permit.
- f. Public Parks or Public Playgrounds.
- g. Retail Sales: Bicycle Sales, Cameras, Computers, Books, Department Stores, Electronics, Furniture, Guns, Appliances, Clothing, Sporting Goods, Auto Parts Store, where there is no service or repair to any vehicles.
- h. Residential: Dwelling units above the ground floor as secondary uses to primary commercial and office uses, in Old Town (Downtown) only.
- i. Restaurant: Tearoom or cafe, when the establishment is not a drive-through.
- j. Services: Beauty Parlors, Tailors, Dry Cleaners, Interior Decorators, Photography Studios, Massage Therapists, Optometrists only when accessory to an eyewear retailer.
- k. Specialty Stores: Antiques, Art Supplies, Costume Rental, Florists, Gift Shops, Hobby, Jewelry, Medical Supplies, Musical Instruments, Pet Shops, Pharmacies, Printers, Rummage.
- l. Off-street parking facilities, as required or permitted in Chapter 26, Site Plan and Development Review Requirements, of the Code.
- m. Signs, as defined and regulated in Chapter 29, Sign Code, of the Code.
- n. Any other similar type use not specifically listed herein and that is compatible with the established uses on adjoining property, as interpreted by the Zoning Administrator.

**G. B-2 BUSINESS DISTRICT, GENERAL RETAIL.**

- 1. **Permitted Uses.** All activities, except for automobile off-street parking facilities as permitted or required in this B-2 Business District, General Retail, shall be conducted wholly within an enclosed building. The following uses are considered permitted uses in the B-2 Business District, General Retail:
  - a. Any use permitted in the B-1 Business District, Limited Retail.



- b. Cultural: Dance Studios, Art Galleries, Museums.
- c. Municipal Facilities/Utilities.
- d. Public Parks or Public Playgrounds.
- e. Retail Sales: Building Materials, Home Improvement.
- f. Restaurant: Taverns, places with drive-through require a Special Use Permit.
- g. Services: Catering, Contractor Offices, Locksmiths, Small Appliance Repair, Fitness Center, Gun Repair.
- h. Off-street parking facilities, as required or permitted in Chapter 26, Site Plan and Development Review Requirements, of the Code.
- i. Signs, as defined and regulated the Chapter 29, Sign Code, of the Code.
- j. Any other similar type use not specifically listed herein and that is compatible with the established uses on adjoining property, as interpreted by the Zoning Administrator.

**H. OR&D OFFICE, RESEARCH, AND DEVELOPMENT DISTRICT (OR&D DISTRICT).**

- 1. **Purpose.** The OR&D District is intended to provide for innovative, well-designed and maintained office and nuisance-free research uses in an environment that is characterized by controlled ingress and egress to major streets and extensive setbacks and yard areas, imaginative landscaping and high quality building architecture.
- 2. **Permitted Uses.**
  - a. Accessory uses, subject to the provisions of Section 21.15 herein.
  - b. Business Offices: Corporate Headquarters, District, Branch, Sales, Insurance, Real Estate, Advertising, Computer Facility and other similar business offices.
  - c. Financial Offices: Commercial Banks, Savings and Loan, Stock or Commodities Brokers, Commercial and Real Estate Financing, Real Estate Title and other similar financial offices. A Special Use Permit is required for drive-through facilities.
  - d. Governmental Offices.
  - e. Hotels.
  - f. Municipal Facilities/Utilities.

- g. Off-street parking and loading facilities as required in Chapter 26, Site Plan and Development Review Requirements, of this Code.
  - h. Professional Offices: Legal Offices, Certified Public Accountants, and other similar professional offices. Medical offices require a Special Use Permit.
  - i. Research Laboratories, including the testing of products, but not including the manufacturing of products, except as incidental to the research and testing of products.
  - j. Sales Offices, with incidental repairs and service for business and office equipment and supplies with incidental indoor storage of parts and supplies not to exceed a storage area of 100 percent of the gross square foot area of the sale area and offices.
  - k. Wholesale sales and subordinate offices, but not including storage or warehousing.
3. **Special Uses.** A Special Use Permit shall be required for any of the following uses in the OR&D District. (Also refer to Section 21.12 herein for additional special uses.)
- a. Any public building erected or leased by any department, county, state, or federal government, other than office uses as permitted in this district.
  - b. Any building erected or leased by any public utility (light, gas, telephone, water, sewer) for use as a branch office, excluding a distribution center.
  - c. Services or commercial uses intended primarily to serve the immediate convenience needs of persons employed in the area, including stationery and office supply stores, restaurants (but not drive-through facilities) and similar uses.
  - d. Buildings greater than 75 feet in height or 6 stories, whichever is greater.
4. **Pedestrian and Motor Vehicle Circulation.** Pedestrian and motor vehicle circulation shall be coordinated between properties within the OR&D District through the incorporation of the following:
- a. Each lot shall be connected to open space amenities and the trail system by a 5-foot wide concrete sidewalk or an 8-foot wide asphalt bicycle path. The Village Board shall determine the appropriate trail construction method after evaluating the location of the property in question and its relationship to the trail system.
  - b. All primary access points to individual lots shall be from minor roads to ensure that major roads or collector roads are retained as safe and efficient thoroughfares.

- c. Entry court parking areas shall be provided for visitors to the main entrance of the building in order to keep these parking areas separate from loading areas.
- d. Landscaped medians in the entry drive shall be provided for office developments greater than 10 acres in size. The length of the median shall equal the depth of the required setback. Special paving treatments shall also be required within the entry drive in order to differentiate building entrances.
- e. Loading areas must be located to the rear or side of the building.

**5. Landscaping and Screening.**

- a. All developments in the OR&D District shall be designed consistent with Chapter 30, Landscaping Code.
- b. Wherever possible existing vegetation, such as mature trees, hedgerows, and wetland plantings, shall be preserved and incorporated into the landscape design.
- c. Trash enclosures, utility boxes, meters, pedestals, and loading/service areas must be screened from adjacent properties, public rights-of-way, parking areas, and pedestrian walkways. Screening shall consist of a solid wall or fence, or landscape material, equal in height or taller than the material being screened.
- d. Refuse and recycling collection areas shall be provided at the rear of each structure or positioned in or near the common parking lot or a driveway and shall be completely screened from view on all sides, with a solid masonry wall constructed to match the building, to a height of 7 feet, and shall include a concrete pad and a solid operable door of adequate width. Each refuse area shall be provided with a closed and covered trash container and recycling container of a type and size pursuant to Village ordinances. It shall be the responsibility of the owner and/or manager of the property to ensure the refuse areas are kept in a neat and well-ordered manner at all times. The owner and/or manager of the structure shall ensure that any spillover at the time of refuse removal is promptly and properly cleaned up, and that refuse is removed on a regular basis pursuant to Village ordinances.
- e. Off-street parking and loading facilities shall be provided as required in Chapter 26, Site Plan and Development Review Requirements, of the Code.
- f. Overnight truck and semi-tractor trailer outdoor parking and storage are prohibited. Overnight truck and semi-tractor trailer parking and storage shall be permitted within an enclosed loading dock, garage, or within a walled and gated sight screen enclosure. Said enclosure shall be open to

the sky and constructed of the same masonry exterior materials as the principal building and of a height equal to the height of the first floor of the principal building. Temporary overnight parking, not to exceed 48 hours, may be permitted for delivery vehicles that arrive after normal business hours.

- g. The outdoor storage of any materials is prohibited.

6. **Stormwater Management.**

- a. In order to eliminate the need for individual parcels to provide their own stormwater management areas, all corporate campus and light industrial uses shall consider participating with the development and maintenance of common detention/retention areas as part of an integrated stormwater management system that serves the entire area.
- b. Stormwater management facilities shall be provided as required in Chapter 28, Stormwater Management, of this Code.

7. **Architectural Criteria.** Common architectural standards shall be established for all buildings in the OR&D District in order to establish an attractive, unified visual image. The standards include:

- a. Buildings shall be in scale with adjacent developments and with the ultimate character planned for the area. Building components, such as windows, doors, eaves, roof spans, etc., shall be appropriately proportioned to one another.
- b. Large, blank wall faces are discouraged. Facade articulation and visual interest shall be increased by the introduction of windows, doors, and vertical or horizontal elements. When possible, buildings and building components should be of varied height to add variety and interest.
- c. All cooling towers, mechanical equipment appurtenances, vents, intakes or stacks, or other rooftop structures shall be screened from view on all sides of the building by a parapet wall or other means. Screens shall be constructed of materials that are compatible to the primary facades.
- d. All accessory structures on a lot shall share a common architectural theme with the primary structure. Architectural expression shall be consistent in color, materials, and design.
- e. All structures must be of masonry construction, to include split-face block, precast concrete and brick.
- f. Complete or partial pitched roofs are strongly encouraged to enhance building appearance.
- g. Sustainable, environmental designs are encouraged. These designs may include, but are not limited to, green roofs, electric vehicle charging sta-

tions, solar panels, permeable pavement, etc., and shall be reviewed by Village staff for compliance with local, state, and federal regulations.

**8. Parking.**

- a. Parking shall be provided on the same lot as the main buildings that require the parking, unless joint parking lots or structures are developed.
- b. It is encouraged that parking areas be located to the side or rear of buildings on each lot. Limited visitor or short-term parking may be located in front of the building if necessary, provided such parking is well screened from the right-of-way.
- c. The design of parking areas shall minimize conflicts between pedestrian and vehicular circulation.
- d. Landscaped parking islands shall be provided at both ends of parking rows. A minimum of two trees is required per landscaped island. One island is required for every 25 parking spaces.
- e. A 25-foot wide fire lane shall be provided within parking lots to provide adequate access for emergency vehicles.
- f. The number of parking spaces for each lot shall be determined pursuant to Chapter 26, Site Plan and Development Review Requirements, of this Code, with the exception of office uses which must provide five parking spaces for every 1,000 square feet of floor area. A reduction of up to 10 percent of required parking, based on substantiated projection of reduction in parking demand, may be taken for any building or use exceeding 50,000 square feet gross floor area that institutes and maintains a locally approved carpooling/vanpooling program. Such reduction may be terminated upon failure of the owner, operator, tenant, or others responsible for such program to maintain the program in an ongoing and acceptable manner.
- g. Cumulative parking requirements for mixed-use occupancies may be reduced where it can be determined that the peak requirement of the several occupancies occurs at a different time (either daily or seasonally). The Shared Parking Report published by the Urban Land Institute shall be used as a guideline in the estimation of parking demand. Shared-use agreements shall be formalized with appropriate legal documents including letters of agreement between shared parking facility owners. A copy of any executed shared-use agreement shall be filed with the Village.

**9. Lighting.**

- a. Street lighting shall be provided as required in Chapter 22, Algonquin Subdivision Ordinance, of this Code.
- b. LED or metal halide lighting shall be required. Other types of lighting may be reviewed at the discretion of the Village Board, provided the light-

ing is uniform with and comparable to metal halide in terms of color, temperature, glare, lighting levels, or other specifications.

- c. Finishes of fixtures shall be durable and easily maintained, in dark neutral colors.
  - d. All light bulbs shall be flush with the housing.
  - e. All lighting shall be designed to minimize glare. All building or pole-mounted lights shall be aimed directly downward only, and floodlights intended to light signage, landscape features, and facades shall be aimed only at those features.
  - f. Alternative lighting designs, such as acorn-style lighting, may be acceptable if reviewed by the Community Development Department and approved by the Village Board as part of a planned development.
  - g. The Village Board shall have the ability to make additional modifications to the site lighting if, upon an inspection of the lights after installation, it is determined that the lighting is too intense.
10. **Signs.** All signs are subject to the regulations of Chapter 29, Sign Code, of the Code. The provisions of Section 29.14, Randall Road Corridor District Regulations, shall apply to all properties within one-half mile of Randall Road.
11. **Association.** Business center associations shall be formed when there are shared facilities and maintenance responsibilities between property, building and business owners. Associations shall be responsible for the collection of assessments; maintenance of all common areas, such as open spaces, ponds and detention facilities; all other landscape features not maintained by the Village or individual property owners, review and formulation of any other policies; and activities that will contribute to the security, image and success of the district. Property owners shall be required to submit to the Village a set of restrictive covenants and conditions on the property to address issues including, but not limited to, cross-access easements, cross-parking easements, storm water detention facility maintenance, shared property maintenance, shared refuse enclosure, and similar joint responsibilities between the owners. The covenants and conditions shall be reviewed and approved by the Community Development Department and Village Attorney.

**Section 21.10**  
**INDUSTRIAL DISTRICTS**

- A. **PURPOSE.** The industrial districts set forth herein are established to protect public health, safety, comfort, convenience, and the general welfare and to protect the economic base of the Village, as well as the value of real estate by regulating industrial development in appropriate locations. These general objectives include, among others, the following specific objectives:
1. To protect established residential areas, and the health of families living therein, by restricting those nearby industrial activities that may create offensive noise, vibration, smoke, dust, odors, heat, glare, fire hazards, and other objectionable influences to those areas that are appropriate therefore.
  2. To provide adequate space in appropriate locations for most types of industrial and related activities so the economic structure of the community may be strengthened and employment opportunities may be found in the interest of public prosperity and welfare.
  3. To provide more space for industrial activities in locations accessible to highways so the movement of raw materials, finished products, and employees can be carried on efficiently and with minimum danger to public life and property.
  4. To establish proper standards of performance that will restrict obnoxious industrial activities, while at the same time encourage and permit the industrial activities that have adopted facilities for the processing of finished products without adversely affecting the health, happiness, safety, convenience, and welfare of the people living and working in nearby areas.
  5. To protect industrial districts from incompatible uses of land by prohibiting the use of such space for new residential development, thereby preserving the land for a more appropriate use in accordance with the plans for Village improvement and development.
  6. To promote the most desirable use of land in accordance with a well-considered plan of land use for all of the Village, to conserve the use of property, to promote stability of industrial activities and related development, to protect the character and established development in each area of the community, and to enhance and stabilize the value of land and to protect the tax base of the Village.
- B. **FENCES.** Whenever an industrial use abuts a residential district or a residential use, the owner of the industrial property shall be required to erect and maintain a board-on-board fence of not less than 6 feet in height or install a six-foot tall landscaped berm to screen the industrial use from the abutting residential district or residential use. The fence materials and landscaping shall be approved by the Village.
- C. **SETBACK REQUIREMENTS.** See Section 21.5, Bulk Chart, herein.

D. **ARCHITECTURAL CRITERIA.** Common architectural standards shall be established for all buildings in the Industrial District in order to establish an attractive, unified visual image.

- a. Buildings shall be in scale with adjacent developments and with the ultimate character planned for the area. Building components, such as windows, doors, eaves, roof spans, etc., shall be appropriately proportioned to one another.
- b. Large, blank wall faces are discouraged. Facade articulation and visual interest shall be increased by the introduction of windows, doors, and vertical or horizontal elements. When possible, buildings and building components should be of varied height to add variety and interest.
- c. All cooling towers, mechanical equipment appurtenances, vents, intakes or stacks, or other rooftop structures shall be screened from view on all sides of the building by a parapet wall, penthouse, or other means. Screens shall be substantially compatible to the primary structure in terms of material, type, and design of construction, finish, and color.
- d. All accessory structures on a lot shall share a common architectural theme with the primary structure. Architectural expression shall be consistent in color, materials, and design.
- e. All structures must be of masonry construction, unless otherwise approved by the Village Board as part of a planned development. Precast panels shall not be permitted on buildings fronting Randall Road.
- f. Complete or partial pitched roofs are strongly encouraged to enhance building appearance.
- g. Sustainable, environmental, designs are encouraged. These designs may include, but are not limited to, green roofs, electric vehicle charging stations, solar panels, permeable pavement, etc., and shall be reviewed by Village staff for compliance with local, state and federal regulations.
- h. All refuse and recycling containers shall be enclosed with a 6-foot tall brick surround to match the building with latchable wooden or metal gates. The materials stored within the enclosure shall not extend above the walls of the enclosure.

E. **I-1 INDUSTRIAL DISTRICT, LIMITED (I-1 DISTRICT).**

1. **Permitted Uses.** Since most uses permitted in this district will be in proximity to residential districts, it is hereby declared that performance standards shall be high, and that all manufacturing, processing or assembly of materials and products must be carried on in a manner not injurious or offensive to the occupants of adjacent premises by reason of the emission of odors, fumes or gases, dust, smoke, noise, vibrations, or fire hazards. All uses shall be performed in a completely enclosed building. Therefore, provided there is compliance with the performance standards



established herein, the following uses are considered permitted uses in the I-1 Industrial District, Limited:

- a. Any use permitted in the B-1, Limited Retail, B-2, General Retail or OR&D Districts, but not including residences or apartments, except such dwelling accommodations as may be needed to house a caretaker or watchman employed on the premises and their families.
- b. Brewery, Winery, Distillery: Wholesale and/or retail sales, tasting room permitted.
- c. Building Materials: Tools, Hardware.
- d. Machine Shops: Tool and Die Shops, Metal Polishing, Plating, Metal Stamping.
- e. Manufacturing: Electronics, Mattresses, Bicycles, Boats, Brushes, Cork, Ceramic, Glass Products, Sheet Metal Products, Plastic Products, Tobacco Products, Pharmaceuticals, Perfumes and Cosmetics, Toys, Carpet, Textiles, Canvas, Coated Fabrics, Drapery, Rubber Products, Musical Instruments, Sporting Goods.
- f. Municipal Facilities/Utilities.
- g. Public Parks and Playgrounds.
- h. Services: Rug Cleaning, Dry Cleaning, Dairies, Engraving
- i. Any other similar type use that can be operated in compliance with the requirements of this Section, without creating objectionable noise, odors, dust, smoke, gas, fumes or vapor and that is a use compatible with the use and occupancy of adjoining properties, as determined by the Zoning Administrator.

F. **I-2 INDUSTRIAL DISTRICT, GENERAL (I-2 DISTRICT).**

1. **Permitted Uses.** The uses permitted in this district generally include those manufacturing and industrial activities that cannot be operated economically without creating some conditions that may be objectionable or obnoxious to the occupants of adjoining properties and, for that reason, must be grouped in areas where similar industrial uses are now located or where the permitted uses will be best located in accordance with the comprehensive land use plan of the Village, that is designed to protect the welfare of the community. Therefore, provided there is compliance with the performance standards established herein, the following uses are considered permitted uses in the I-2 District, General:
  - a. Any use permitted in the I-1 District, Limited.
  - b. Building Materials: Prefabricated Houses, Composition Wallboards, Partitions, and Panels, Linoleum, Porcelain Products.

- c. Churches. See Section 21.12, Special Uses, herein for more specific information.
- d. Machine Shops: Motor Testing.
- e. Manufacturing: Crates, Bricks, Corrugated Metal, Dyes and Inks, Glass Blowing, Graphite Products, Lumber, Brass Foundry, Railroad Equipment, Wax Products, Cooperage Works.
- f. Municipal Facilities/Utilities.
- g. Public Parks and Playgrounds.
- h. Radio and television transmitting or antenna towers. See Section 12.12, Special Uses, herein for more specific information.
- i. Services: Blacksmith, Feed Milling, Meat Packing.
- j. Any other similar type use that can be operated in compliance with the requirements of this Section, without creating objectionable noise, odors, dust, smoke, gas, fumes or vapor and that is a use compatible with the use and occupancy of adjoining properties, as determined by the Zoning Administrator.

**G. B-P BUSINESS PARK DISTRICT (B-P DISTRICT).**

- 1. **Purpose.** The B-P District is intended to provide for well-designed, attractive and innovative buildings housing nuisance-free, light industrial, and compatible uses in an environment that is characterized by controlled ingress and egress to major streets and extensive setbacks and yard areas with imaginative landscaping, and that will provide screening and landscaping necessary to create a proper relationship with adjacent areas.
- 2. **Permitted Uses.**
  - a. Any use permitted in the I-1 District designed to meet the above purpose.
  - b. Accessory uses, subject to the provisions of Section 21.8 herein.
  - c. Blueprint, Photostating, Bookbinding, Lithographing
  - d. Off-street parking and loading facilities as regulated by Chapter 26, Site Plan and Development Review Requirements, of this Code.
  - e. Printing and publishing.
  - f. Salesrooms and offices incidental to the permitted uses.
  - g. Warehouse storage of nonhazardous materials, products, and equipment,

wholly enclosed within the building.

3. **Special Uses.** A special use permit shall be required for any of the following uses in the B-P District. Also refer to Section 21.12 herein for additional special uses.
  - a. Any public building erected or leased by any department of a county, state, or federal government.
  - b. Outdoor storage subject to the provisions of paragraph 7.d., below.
4. **Nonconforming Use.** Notwithstanding the provisions of Section 21.14 herein, not more than one church may be allowed within the B-P District, within an existing church building, subject to the following provisions:
  - a. The church must be in a building that was clearly constructed as a church and that existed prior to the B-P District zoning of the subject property;
  - b. The church building shall not be expanded or enlarged in any fashion;
  - c. The building and property must otherwise comply with all Village code requirements;
  - d. If the building is rented, leased, or sold, the owner shall disclose the provisions of this Section and provide a letter of awareness stating the same to the Village, signed by the owner and any buyer, lessee, or tenant, that shall be a prerequisite to any occupancy permit for the building;
  - e. These provisions are applicable for a period of not more than five years from the date of adoption of this amendment by Ordinance 2011-O-25 on September 6, 2011; and
  - f. Prior to the end of said five-year period, the use of the property as a church shall cease and the building shall be demolished. If any church use ceases for a period of six months or more prior to the expiration of the five-year period, no church use shall be re-established and the building shall be demolished.
5. **Prohibited Uses.** Any production, processing, cleaning, services, testing, repair, or storage of materials, goods, or products that could be injurious or offensive to the occupants of adjacent premises by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious materials, odors, fire or explosive hazards, glare, or heat are not allowed.
6. **Height Regulations.**
  - a. Any FCC-licensed commercial A.M.-based transmitting facility granted a special use permit may have one radio broadcasting tower located on the premises granted a Special Use Permit, such tower shall not exceed 165 feet in height.

- b. All cooling towers, mechanical equipment or appurtenance, vents, intakes or stacks, or other rooftop structures shall be screened from view on all sides of the building by a parapet wall, solid sightcreen or other means that shall completely conceal the rooftop structures from view. A chimney constructed of the same masonry as the exterior of the building is excepted, but a chimney of any other material must be screened. The Building Commissioner shall determine the need for sightcreens, and the screens shall comply with all building code requirements for fire rating, wind loads, and structural integrity.

7. **Other Regulations.**

- a. All uses shall be in compliance with all applicable local, state, and federal laws and guidelines.
- b. All lots shall be regulated by Section 21.4, Performance Standards, herein.
- c. Refuse and recycling collection areas shall be provided at the rear of each structure or positioned in or near the common parking lot or a driveway and shall be completely screened from view on all sides, with solid fencing of masonry construction to match the building to a height of 7 feet, and shall include a concrete pad and an operable door of adequate width. Each such refuse area shall be provided with a closed and covered trash container and recycling container of a type and size pursuant to Village ordinances. It shall be the responsibility of the owner and/or manager of the structure to ensure that the refuse areas are kept in a neat and well-ordered manner at all times. The owner and/or manager of the structure shall ensure that any spillover at the time of refuse removal is promptly and properly cleaned up and that refuse is removed on a regular basis pursuant to Village ordinances.
- d. Any uses that involve the storage of any materials, products, goods, vehicles, or any other equipment or raw or finished materials, either repetitively or for periods longer than 48 hours, must be conducted entirely and wholly within the building, unless the Village Board grants a special use permit or approves the outdoor storage as part of a planned development, in which case adequate screening must be provided.
- e. There shall be no sale of any goods or services outside of an enclosed building except by a special use permit, planned development approval, or Seasonal Sales Permit, granted by the Village.

8. **Pedestrian and Motor Vehicle Circulation.** Pedestrian and motor vehicle circulation shall be coordinated between properties in the B-P District through the incorporation of the following:

- a. Each lot shall be connected to open space amenities and the trail system by a 5-foot wide concrete sidewalk or an 8-foot wide asphalt bicycle path, or, if the corridor is immediately adjacent to a wetland, an 8-foot wide

limestone trail. The Village Board shall determine the appropriate trail construction method after evaluating the location of the property in question and its relationship to the trail system.

- b. All primary access points to individual lots shall be from minor roads to ensure that major roads or collector roads are retained as safe and efficient thoroughfares.
- c. Entry court parking areas shall be provided for visitors to the main entrance of the building in order to keep these parking areas separate from loading areas.
- d. Landscaped medians in the entry drive shall be provided for office developments greater than 10 acres in size. The length of the median shall equal the depth of the required setback. Special paving treatments shall also be required within the entry drive in order to differentiate building entrances.
- e. Loading areas shall be located to the rear or side of the building. Buildings less than 75,000 square feet shall be permitted two loading docks in the front of the building, if necessary. The Village Board may approve loading docks in the front of the building as part of a planned development.

9. **Landscaping and Screening.**

- a. All developments in the B-P District shall be designed consistent with Chapter 30, Landscaping Code, of this Code.
- b. Wherever possible, existing vegetation such as mature trees, hedgerows, and wetland plantings, shall be preserved and incorporated into the landscape design.
- c. Trash enclosures, utility boxes, meters, pedestals, and loading/service areas must be screened from adjacent properties, public rights-of-way, parking areas, and pedestrian walkways. Screening shall consist of a solid wall or fence, or landscape material, equal in height or taller than the material being screened.
- d. Overnight truck and semi-tractor trailer outdoor parking and storage are prohibited. Overnight truck and semi-tractor trailer parking and storage shall be permitted within an enclosed loading dock, garage, or within a walled and gated sight screen enclosure. All enclosures shall be constructed of the same masonry exterior materials as the principal building and of a height equal to the height of the first floor of the principal building. Temporary overnight parking, not to exceed 48 hours, may be permitted for delivery vehicles that arrive after normal business hours.

10. **Stormwater Management.**

- a. In order to eliminate the need for individual parcels to provide their own

stormwater management areas, all corporate campus and light industrial uses shall consider participating with the development and maintenance of common detention/retention areas as part of an integrated stormwater management system that serves the entire area.

- b. Refer to Chapter 28, Stormwater Management, of this Code for specific requirements.

11. **Architectural Criteria.** Common architectural standards shall be established for all buildings in the B-P District in order to establish an attractive, unified visual image.

- a. Buildings shall be in scale with adjacent developments and with the ultimate character planned for the area. Building components, such as windows, doors, eaves, roof spans, etc., shall be appropriately proportioned to one another.
- b. Large, blank wall faces are discouraged. Facade articulation and visual interest shall be increased by the introduction of windows, doors, and vertical or horizontal elements. When possible, buildings and building components should be of varied height to add variety and interest.
- c. All cooling towers, mechanical equipment appurtenances, vents, intakes or stacks, or other rooftop structures, shall be screened from view on all sides of the building by a parapet wall, penthouse, or other means. Screens shall be substantially compatible to the primary structure in terms of material, type, and design of construction, finish, and color.
- d. All accessory structures on a lot shall share a common architectural theme with the primary structure. Architectural expression shall be consistent in color, materials, and design.
- e. All structures must be of masonry construction, unless otherwise approved by the Village Board as part of a planned development. Precast panels shall not be permitted on buildings fronting Randall Road.
- f. Complete or partial pitched roofs are strongly encouraged to enhance building appearance.
- g. Sustainable, environmental, designs are encouraged. These designs may include, but are not limited to, green roofs, electric vehicle charging stations, solar panels, permeable pavement, etc., and shall be reviewed by Village staff for compliance with local, state, and federal regulations.

12. **Parking.**

- a. Parking shall be provided on the same lot as the main buildings that require the parking, unless joint parking lots or structures are developed.
- b. It is encouraged that parking areas be located to the side or rear of build-

ings on each lot. Limited visitor or short-term parking may be located in front of the building if necessary, provided such parking is well screened from the right-of-way.

- c. The design of parking areas shall minimize conflicts between pedestrian and vehicular circulation.
  - d. Landscaped parking islands shall be provided at both ends of parking rows. A minimum of two trees is required per landscaped island. One island is required for every 25 parking spaces.
  - e. A fire lane shall be provided within parking lots to provide adequate access for emergency vehicles.
  - f. The number of parking spaces for each lot shall be determined by the provisions of Chapter 26, Site Plan and Development Review Requirements, of this Code, with the exception of office uses that must provide five parking spaces for every 1,000 square feet of floor area. A reduction of up to 10 percent of required parking, based on substantiated projection of reduction in parking demand, may be taken for any building or use exceeding 50,000 square feet gross floor area that institutes and maintains a locally approved carpooling/vanpooling program. Such reduction may be terminated upon failure of the owner, operator, tenant, or others responsible for such program to maintain the program in an ongoing and acceptable manner.
  - g. Cumulative parking requirements for mixed-use occupancies may be reduced where it can be determined that the peak requirement of the several occupancies occurs at a different time (either daily or seasonally). The Shared Parking Report published by the Urban Land Institute shall be used as a guideline in the estimation of parking demand. Shared-use agreements shall be formalized with appropriate legal documents, including letters of agreement between shared parking facility owners. A copy of executed shared-use agreement shall be filed with the Village.
13. **Lighting.** Street lighting shall conform to standards in Chapter 22, Algonquin Subdivision Ordinance, of this Code and in this Section.
- a. LED or metal halide lighting shall be required. Other types of lighting may be reviewed at the discretion of the Village Board, provided the lighting is uniform with and comparable to metal halide in terms of color, temperature, glare, lighting levels, or other specifications.
  - b. Finishes of fixtures shall be durable and easily maintained in dark, neutral colors.
  - c. All light bulbs and lenses shall be flush with or recessed into the housing.
  - d. All lighting shall be designed to minimize glare. All buildings or pole-mounted lights shall be aimed directly downward only. Floodlights in-

tended to light signage, landscape features, and facades shall be aimed only at those features.

- e. Alternative lighting designs, such as acorn style lighting, may be acceptable if reviewed by the Community Development Department and Public Works Director and approved by the Village Board as part of a planned development.
  - f. The Village shall have the ability to make additional modifications to the site lighting if, upon an inspection of the lights after installation, it is determined that the lighting is too intense, that areas of glare or excessive spillage exist, or similar issues.
14. **Signs.** All signs are subject to the regulations of Chapter 29, Sign Code, of this Code. The provisions of Section 29.14, Randall Road Corridor Sign Regulations, apply to all properties within one-half mile of Randall Road.
15. **Association.** Business center associations shall be formed when there are shared facilities and maintenance responsibilities between property, building, and business owners. The associations shall be responsible for the collection of assessments; maintenance of all common areas, such open spaces, ponds and detention facilities; all other landscape features not maintained by the Village or individual property owners; and review and formulation of any other policies and activities that will contribute to the security, image, and success of the district. Developers shall be required to submit to the Village a set of restrictive covenants and conditions on the property to address issues including, but not limited to, cross-access easement, cross-parking easement, stormwater detention facility maintenance, shared property maintenance, shared refuse enclosure, and similar joint responsibilities between the owners. The covenants and conditions shall be reviewed and approved by the Community Development Department and Village Attorney.



**Section 21.11**  
**PLANNED DEVELOPMENTS**

- A. PURPOSE.** The development and execution of a zoning ordinance is based upon the division of the Village into districts, within which districts the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are unique uses that, because of their characteristics, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location. It is also recognized that new types and procedures in land development or redevelopment are emerging and that the mixing of uses and variations in heights and yards can produce very satisfactory and lasting results, if properly designed and planned, without adverse influence upon surrounding property.
- B. PLANNED DEVELOPMENT.** A planned development is a tract of land containing two or more principal buildings that is developed as a unit under single ownership or control and that may not completely conform to all of the regulations of the district in which it is located. Any condominium project of any size, any townhouse project of any size, or any other residential project containing eight units or more, whether in one building or more than one building, shall be considered a planned development. Any redevelopment project within the O-T District, as defined and regulated in Sections 21.3 and 21.6 herein, shall be considered a planned development.
- C. MINIMUM AREA.** No minimum lot area or acreage is required to be eligible for consideration as a planned development area. The major requirement is that the tract be both self-contained and homogeneous, as well as being improved to benefit the entire Village with no adverse effect upon the surrounding property.
- D. PROCEDURE, APPLICATION AND REFERRAL.** A concept plan, at the discretion of Village Staff, preliminary plan and final plan are required for each development. For specific information regarding the application and procedure, refer to Section 22.03, Subdivision/Planned Development Procedures, of this Code.
- E. GENERAL STANDARDS.** A planned development shall conform to the following requirements:
1. The number of dwelling units erected shall not exceed the number permitted by the regulations of the district in which it is located, except in cluster developments where a density bonus may be granted as part of the planned development.
  2. If a building is permitted to exceed the height limit of the district in which it is located, the yards and open spaces around such building shall be increased by an amount equal to the height that the building exceeds the height limit of the district measured in feet.
  3. If more intensive uses are permitted than are allowed by the district regulations, there must be clear evidence that such uses are appropriate, provided the Planning and Zoning Commission finds:

- a. That the use permitted by such exceptions is necessary or desirable and is appropriate with respect to the primary purpose of the development;
  - b. That the uses permitted by such exception are not of such a nature or so located as to exercise a detrimental influence on the development nor on the surrounding neighborhood;
  - c. That, in an industrial development, such additional uses allowed by exception shall conform to the performance standards of the district in which the development is located as set forth in Section 21.4 herein;
  - d. That the use exceptions allowed are on file in the Community Development Department;
4. The amount of off-street parking must be adequate to serve the needs of the projects. The Planning and Zoning Commission and Village Board may require more or less off-street parking, than is otherwise required by this Chapter if it is determined the use(s) warrants the deviation.
  5. If any open space or recreational facility is to be used solely by the residents of the project, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly improved, maintained, and operated.
  6. All residential planned developments that involve annexation shall include clearly identifiable community-wide benefit improvements to the Village. Benefits may include the following, but shall not be limited to those listed: expansion of Village infrastructure that can serve other parts of the community; creation of a community park; dedication of right-of-way or construction of a collector road; and component of a larger mixed-use development that includes commercial uses. The larger the residential unit count, the larger the community-wide benefit improvements.
  7. All commercial planned developments that include lots fronting on any major collector or arterial roadway shall provide landscaped open space between each building and parking lot. Said landscaped area shall include combinations of trees, shrubs, and seasonal plantings that shall be planted on top of earthen berms. The appropriate land area, height of the berm, and exact plant material specifications shall be reviewed and approved by the Village Board as part of the final planned development review process.

**F. BULK REGULATIONS.** In the case of any planned development, the Planning and Zoning Commission may recommend, and the Village Board may authorize, exceptions to the applicable bulk regulations of this Section within the boundaries of such development, provided the Planning and Zoning Commission finds:

1. That such exception shall be solely for the purpose of encouraging a desirable living environment no less beneficial to the residents or occupants of such develop-

ment, as well as of neighboring properties, than would be obtained under the bulk regulations of this Chapter for buildings developed on separate zoning lots.

2. Other standards for height, density, yard regulations, parking, loading, and screening for a planned development shall be governed by the standards of the residential, commercial, or industrial zoning district(s) most similar in nature and function to the proposed planned development as determined by the Planning and Zoning Commission. The applicable ordinances and laws of the Village shall govern standards for public improvements. Exceptions to these standards by the Planning and Zoning Commission and the Village Board are possible when these bodies find that such exceptions are warranted in terms of the total proposed development.

**G. APPROVAL.** Whenever the Planning and Zoning Commission and the Village Board approve the final plan and accompanying agreements, the Building Commissioner shall issue the necessary permits for all of the project or for such phases thereof that are to be first constructed provided it is consistent with all approved plans, fees are paid, and building codes are met. The Manager may, from time to time, approve minor changes within the project, but such changes shall not be of a nature that would affect the character and standard of the planned development.

**H. TIME LIMIT.** If, after approval of preliminary plans, no application is made for final approval, the preliminary plans shall be declared null and void after a 2-year time period. The Board may issue one extension of 2 years. If no construction has been started on any phase of development within 2 years from the date of approval of the final plan, the permits shall be declared null and void and the project shall not be initiated unless it is re-submitted and reapproved in the same manner that it was approved in the first instance. The Village Board may, however, extend the period for initiating construction upon a showing of good and sufficient cause.

**I. VIOLATIONS.** See Section 21.22, Violations; Penalty, herein.

**J. CONSERVATION DESIGN STANDARDS AND PROCEDURES**

1. **Background:** The Village is committed to protecting its natural resources as growth continues within the Village. Developments can be designed and constructed in ways to preserve and enhance natural features to ensure a high quality of life for the community. These conservation design standards and procedures require developers and consultants to work with the natural landscape of the land and develop around these features instead of destroying the features or trying to recreate them elsewhere.

2. **Purpose:**

- a. To create a more livable and sustainable community;

- b. To preserve the integrity of the land and its natural functions and to provide long-term ecologic management;

- c. To preserve the hydrologic condition and infiltrative capability of the soil by minimizing mass grading and impervious surfaces;
  - d. To preserve natural groundwater recharge functions and protect the quality of surface water and groundwater;
  - e. To minimize stormwater runoff and associated flooding and erosion;
  - f. To preserve significant archaeological sites, historic buildings, and their settings;
  - g. To provide connectivity to surrounding developments and promote interconnected trails, greenways, and wildlife corridors;
  - h. To reduce infrastructure costs and the cost of public services required for new development and enhance property values;
  - i. To protect habitat and maintain an ecologic balance;
  - j. To promote green building practices and LEED certification;
  - k. To encourage and explore alternative energy;
  - l. To promote infill development or redevelopment first; and
  - m. To view valuable natural areas as nonbuildable areas.
3. **Applicability:** The following regulations are intended to apply to proposed developments/redevelopments 1 acre or larger in size that contain and/or abut sensitive natural resource areas (automatic or cumulative triggers as listed below). In addition, petitioners may voluntarily choose to apply as a conservation development and thereby conform to all of the applicable requirements of this Section. Such applications also are eligible for the relevant density bonuses and related benefits offered.

These regulations are mandatory for a parcel if either an Automatic Trigger or a Cumulative Trigger, as defined below, is met. Note that all such natural resource areas that exist on the site are eligible to meet the open space requirements of this Section.

- a. Automatic Triggers:
  - I. The site is located within an approved watershed plan; then the requirements of the watershed plan shall be followed;
  - II. The site contains or abuts within 200 feet of designated McHenry County Natural Area Inventory (MCNAI) sites;

- III. The site contains or abuts within 200 feet of streams, rivers and lakes designated as Advanced Identification (ADID) high quality habitats.
- b. Cumulative Triggers: The site contains, or abuts within 200 feet the following areas whose cumulative acreage equals or exceeds 10 percent of the total area of the site and the 200-foot abutting zone:
  - I. Wetland: regulatory wetlands, except farmed wetlands;
  - II. Floodplains: FEMA “A,” the 100-year, the “flood of record” from the U.S. Geological Survey Hydrologic Investigations Atlas HA series (“USGS HA series”);
  - III. Glacial kettle holes;
  - IV. Fens;
  - V. Native woodlands and savannas based on on-site determination;
  - VI. Remnant prairies based on on-site determination;
  - VII. Soils characterized as having one or more of the following characteristics:
    - Excessive permeability,
    - High leach potential,
    - High potential for aquifer contamination, or
    - Depressional hydric soils;
  - VIII. State-designated Class III Special Resources Groundwater areas;
  - IX. Publicly owned or private deed-restricted natural open spaces and preserves;
  - X. Sensitive aquifer recharge area;
  - XI. Areas that provide habitat for rare, threatened, or endangered species;
  - XII. Burial sites and Native American Indian mounds; or
  - XIII. Slopes of 12 percent or steeper.

*Commentary: Most of the preceding natural resources data categories are available digitally from the McHenry-Lake County Soil and Water Conservation District or the Kane-DuPage County Soil and Water Conservation District. A few of the categories—such as woodlands, savannas, prairies, and kettle holes—will need to be determined via an on-site analysis. Petitioners, therefore, should plan on using a combination of methods in as-*

*sembling the necessary natural resources inventory to comply with this applicability determination.*

4. **Application Process:** Section 22.03, Subdivision/Planned Development Procedures, of this Code shall be followed for submitting applications. The approved plat of subdivision shall have a note on it designating the development as a Conservation Design.
  - a. Site Analysis/Information Requirements for the Preliminary Plan Submittal: In the Natural Resources Inventory (unless otherwise indicated in existing ordinances), the following information shall be provided for the site and within 200 feet of the boundary. Information shall be prepared by a qualified professional.
    - I. Topography (minimum 1-foot contours);
    - II. Streams, rivers, lakes, and watercourses; and the ADID classification of each;
    - III. Wetlands (U.S. Army Corps of Engineers jurisdictional, county jurisdictional and farmed, and the ADID classification);
    - IV. Floodplain/floodway;
    - V. Depressional storage areas/flood of record from USGS HA series and soil maps showing soils that are depressional;
    - VI. Drainage ditches, field tiles (from a tile survey), storm sewers, and outlets;
    - VII. Existing drainage patterns, drainage divides, and flow paths;
    - VIII. Designated natural areas (INAI and MCNAI);
    - IX. Threatened and endangered species;
    - X. Woodlands, savannas, and prairies;
    - XI. Vegetation analysis (e.g., vegetation communities);
    - XII. Tree inventory;
    - XIII. Soils classifications/types, especially hydric/organic, slope ranges;
    - XIV. Soil interpretation/suitability assessment that includes excessive permeability, leach potential, groundwater recharge or discharge potential, septic suitability, basement suitability, aquifer sensitivity, prime farmland, and soil erosion potential;

- XV. Public open space and preserves;
  - XVI. Farmland;
  - XVII. Historic buildings and/or sites and archeological sites; and
  - XVIII. Septic systems and sewer lines.
- b. Site Capacity Analysis/Site Yield Plan:
- I. Residential: These calculations are intended to determine site capacity for residential development: buildable acreage and number of units.
  - II. The entire area of the parcel (the acres of land within the bounds of the legal description) shall be determined and considered the “gross area.”
  - III. Ninety percent of the gross area, as defined above, excluding one half (0.5) of all land located within the automatic or cumulative triggers, shall be considered the “par acreage.” For example, if the gross area is 80 acres with 20 acres of wetlands, the par acreage would be 63 acres,  $(80 - [20 \times 0.5] \times 0.9 = 63)$ .
  - IV. The par acreage, as determined above, shall then be multiplied by the maximum allowable dwelling units per acre as determined by the underlying zoning class. The resulting computation shall represent the maximum number of dwelling units that can be built in the conservation design, prior to any density bonus that may be approved.
  - V. Development Yield Analysis: The petitioner shall submit a table showing the maximum number of dwelling units that would be permitted under this Chapter, consistent with the minimum lot size, lot widths, setbacks, and other provisions of this Chapter, and compare it to the number of dwelling units proposed. Land that is undevelopable because of other laws and ordinances that prohibit development in certain areas (e.g., floodplains, wetlands, steep slopes, and drainage ways) shall be excluded from the development yield analysis.
  - VI. Non-residential: Commercial, office, research, and light industrial uses shall not exceed a site coverage ratio of 0.4, prior to any site coverage bonus that may be approved.
5. **Density Bonuses for Open Space and Innovative Design**: At the request of the petitioner, the staff may recommend and the Village Board may approve an increase in density if it is demonstrated that the proposed conservation design plan offers a superior layout and quality of design that incorporates environmentally

sensitive design features that substantially exceed the minimum requirements of this Chapter while preserving the intent and purpose of the plan. If density bonuses are requested, the petitioner is required to authenticate all site amenities and improvements. In addition, it shall be the petitioner's responsibility to present appropriate evidence and documentation that each standard, for every density bonus requested, has been met or exceeded for Village Board consideration.

For residential developments, the maximum density bonus may not exceed more than 0.5 units per acre. For nonresidential developments, the maximum density bonus shall be an increase of site coverage up to 0.75. Examples of items that may be worthy of consideration for a density bonus include:

- a. Internal trails and open spaces are connected with existing or potential open spaces and multi-use trails outside of the development and provide access to the public.
- b. The amount of open space provided exceeds the minimum required for the development by 10 percent or more.
- c. Open space within the development is placed into a conservation easement with a legally incorporated land conservation organization or donated to a public open space agency.
- d. Wetland restoration and/or enhancement are performed substantially in excess of the Village and U.S. Army Corps of Engineers permit requirements.
- e. Remnant prairies, savannas, and woodlands are substantially restored prior to the turnover of the property to the homeowners' or property owners' association or land conservation organization. Such restoration will consist of the removal of invasive trees, brush, and herbaceous species and the establishment of native herbaceous species.
- f. The development proposes a mix of housing types and price ranges (including affordable housing).
- g. Recognized historical buildings and structures are preserved and reused.
- h. All structures are built to LEED certification specifications, WaterSense and/or Energy Star certification.
- i. Green roof or white membrane roof covers at least 75 percent of the roof area for non-residential buildings.
- j. Geothermal heating and cooling system installed.
- k. Solar and/or wind power installed.
- l. Alternative methods for irrigation systems are installed (e.g., grey water



recycling, stormwater, not using potable water supplies).

6. **Conservation Design Layout:** The proposed development shall be designed to fit the topography, physical features, and soil conditions of the subject site. More specifically, conservation design shall preserve natural drainage patterns, use and preserve native vegetation and stabilize soils during construction, and protect, enhance, and maintain natural resources.

Conservation design layouts are typically designed starting from the land to the lots which is different from traditional design of lots to land. Following is the conservation design process:

- a. Identify all natural resources, conservation areas, open space areas, and physical features. To the maximum extent practical, these features shall be preserved as open space and protected from any negative impacts generated as a result of the development or other land-disturbing activities. In so doing, the design of an open space network also shall preserve or establish greenway and trail connections to adjacent natural areas, subdivisions, and local and regional trails and greenways.
- b. Locate building sites to take advantage of open space and scenic views. Lot areas and lot widths that facilitate the access of neighborhoods and lots to open space and conservation areas should be considered in order to provide more efficient use of the land, as well as to protect the development rights of the property owner and preserve the number of units permitted by the underlying zoning of the property.
- c. Design the streets network to minimize encroachment in sensitive natural resources and to take advantage of open space vistas. Interconnection of internal streets and street connections to adjoining land parcels should be provided to create opportunities for future connectivity while also recognizing potential safety issues involving ingress/egress.
- d. Establish lot lines and lot sizes in order to take maximum advantage of conservation subdivision concepts.

7. **Conservation Design Standards:**

- a. Residential and Nonresidential Development:
  - I. Lots, buildings, and building sites should be clustered. Lot and building site size may be less than that required by the underlying zoning in order to achieve greater preservation and protection of natural resources. Lot size, shape, and orientation shall be appropriate to the use, location, and type of development.
  - II. Such clusters shall be located to minimize negative impacts on the natural, visual, and cultural resources of the site and between incompatible uses and activities.

- III. Such clusters shall be designed and sited to achieve the following objectives:
- i Minimize disturbance to woodlands, wetlands, prairies, mature trees, headwaters, seeps, and steep slopes.
  - ii Minimize fragmentation of natural areas and open space while also providing for access and views from clusters.
  - iii Avoid encroaching on rare plant communities, high quality habitats, or endangered species.
  - iv Minimize encroachment in natural depressions, drainage ways, and sensitive recharge areas to facilitate their use for runoff infiltration and filtering.
  - v Maintain and protect scenic views of open land from adjacent and proposed roads.
  - vi Minimize visual impact through the use of natural landscaping.
  - vii Protect buildings and sites of historic significance or incorporate them through adaptive reuse.
  - viii Landscaping around the building clusters shall be provided, where appropriate, to reduce off-site views of the buildings, and such landscaping shall be comprised, to the greatest extent possible, of native plant species.
  - ix Structures shall be oriented to maximize solar gain in the winter months.
  - x Buildings shall be constructed with green building practices such as LEED certification specifications, Energy Star ratings, WaterSense ratings, the International Energy Conservation Code (Section 23.16 of this Code), green roofs or white membrane roofs, or similar high standards.
  - xi Lot easements: public, private, and utility easements shall be located on the lot.
  - xii The garage elevation shall be set back from the front elevation of the house by at least 5 feet.
  - xiii Every lot shall have access, where practical, to an interior street. However, any existing farmstead that is to be pre-

served that has a driveway outside of the proposed development should be preserved and allowed.

- xiv If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such use and should have appropriate buffers between residential and agricultural.

b. Buffer Standards:

- I. A minimum 30-foot vegetative buffer designated as a separate outlot shall be maintained around the exterior of the development on all sides. The buffer shall be measured from the road right-of-way or adjacent property line. This buffer shall be designed to screen new housing or incompatible development, to preserve scenic views, or otherwise enhance the landscape as seen from existing perimeter roads. A trail or sidewalk may be constructed within the perimeter buffer area and should, where feasible, connect to any neighboring trails or sidewalks.
- II. A 50-foot-wide buffer is required along the perimeter of an area that borders an adjacent natural area, or a public or private deed-restricted open space.
- III. A minimum 100-foot wide buffer is required around sensitive natural resources, and the buffer may be increased based on the quality of the natural resource and adjacent use.
- IV. All other required buffers shall comply with the *Kane County Stormwater Management Ordinance*.

c. Street and Trail Standards:

- I. Local streets shall be two-way streets.
- II. Pavement width and right-of-ways in conservation designs shall be as follows:  
  
Local streets: 24 feet of pavement with a 60-foot right-of-way.  
Collector streets: 28 feet of pavement with a 60-foot right-of-way.  
On-street parking is at the discretion of the Village.
- III. Streets shall be developed according to standards that promote road safety, provide adequate access for emergency vehicles, provide access to trails and, where appropriate, accommodate bikeways on roads, and allow for adequate vehicular circulation and movement within the development and connecting to adjacent developments. Collector streets shall include on-street bicycle designated lanes. Where appropriate, to accommodate roadside park-

ing needs, creative designs are encouraged. Cul-de-sacs are discouraged unless there are no practical alternatives to serve the buildable portions of the property. Roundabouts at intersections of collectors and arterials should be considered.

- IV. Private drives and parking areas may be constructed with alternative permeable paving surfaces and designs.
  - V. The use of curb, gutter, and storm sewer systems along roads is required.
  - VI. Sidewalks are required on both sides of the street; however, they may be permitted only on one side of the street if there is an extensive trail system throughout the development.
  - VII. Installation of a multi-purpose trail system is encouraged to provide access to open space areas within the development, as well as access to adjacent developments and regional trails (also including those outside the Village's jurisdiction). The trail system shall be privately owned and maintained, unless the adjacent open space system is dedicated to a public land management agency. However, all trails shall have a public access easement over them so they may be used by the general public. Trails shall be 8 feet wide, constructed to the specifications listed in Chapter 22, Algonquin Subdivision Ordinance, of this Code, and paved unless otherwise approved for specific purposes.
  - VIII. Shared or common drives shall be permitted, provided there is a cross-access easement noted on the plat of subdivision to include standards for maintenance and use applicable to the properties utilizing shared access.
  - IX. Parkway trees are required pursuant to Chapter 30, Landscaping Code, of this Code. Trees may be clustered or grouped if shown on the landscape plan and approved by the Village Arborist.
- d. Stormwater Best Management Practice Requirements: Conservation design shall adhere to the requirements of the *Kane County Stormwater Management Ordinance*. In particular, the design shall incorporate a strategy to meet the ordinance release rate requirements, to minimize the increase in runoff volumes and rates, and to address the identified water quality treatment requirements of the ordinance. The petitioner shall use appropriate BMPs as presented in the *Kane County Technical Guidance Manual Best Management Practices (BMP)*, and the following hierarchy in preparing a drainage plan suitable for the development site. These practices shall be given preference in the site plan according to the following sequence:
- I. Preservation of natural resource features of the development site

(e.g., floodplains, wetlands, prairies, and woodlands);

- II. Preservation of the existing natural streams, channels, and drainage ways;
- III. Minimization of impervious surfaces created at the site (e.g., narrowing road width, minimizing driveway length and width, clustering homes, and shared driveways);
- IV. Use of natural landscaping as an alternative to turf grass;
- V. Use of open vegetated swales, bio-swales, filter strips, rain gardens, and infiltration devices to convey, filter, and infiltrate stormwater runoff;
- VI. Preservation of the natural infiltration and storage characteristics of the site (e.g., disconnection of impervious cover and on-lot bio-retention facilities); and
- VII. Structural measures that provide water quality and quantity control.

In addition, the stormwater and site design approach shall comply with the following:

- i The required stormwater management area may be included within the required open space area if the stormwater management area is configured and developed with native wetland and prairie plantings and fits into the overall use and appearance of the open space as determined by the Village.
  - ii All stormwater detention/retention management areas shall be developed as separate outlots that are not part of an individual building lot and shall be owned and maintained by the homeowners' or property owners' association for the subdivision or an approved open space management entity.
  - iii Rooftop runoff and sump pump discharge shall be directed to pervious areas, such as yards, open space, grassed swales or vegetated areas, via sheet flow or in a similar diffused manner.
  - iv Where curb and gutter designs are determined to be necessary, creative approaches, where feasible, shall be implemented to convey runoff through curb cuts and similar designs into swales and bio-swales.
- VIII. Green roofs may be used to reduce stormwater runoff.

- IX. Rain barrels and rain gardens may be used on individual properties to further promote water reuse, filtration, and infiltration. Cisterns are encouraged to be used for irrigation systems.
- X. Long-term maintenance and funding must be in place to credit alternative stormwater facilities (rain gardens, green roofs, etc.) towards the stormwater calculations.

- e. Natural Landscaping Standards: The use of native plant materials for landscaping is required throughout and along the perimeter of the development site and in those areas containing bio-swales, detention basins, common areas, and buffers of streams, lakes, wetlands, and other water bodies. Plants within public right-of-ways must be tolerant to right-of-way conditions.

Natural landscaping shall consist of grasses, wildflowers, shrubs, and trees that are native to the greater Chicago region.

The installation of natural landscapes shall conform to the maintenance, monitoring, and performance criteria contained in the plan. Also, natural landscapes shall be managed in the long term following the requirements in Section 21.11-9, Open Space Management and Stewardship, herein.

- f. Parking Lot Standards: Parking lots shall be designed with the intent of minimizing impervious surface area and maximizing the opportunity to infiltrate and filter stormwater runoff from the lot. All parking lot designs shall meet the following standards:

- I. Parking lots shall provide the minimum number of spaces necessary to meet expected needs. Where feasible, shared parking shall be utilized to minimize space requirements.
- II. Parking lot runoff shall be routed to internal and/or peripheral swales and bio-swales. Where curbing is determined to be necessary, frequent curb cuts shall be utilized to allow runoff to enter swale and bio-swale structures.
- III. Permeable paving shall be evaluated for use in lieu of conventional asphalt or concrete paving. Drive aisles and heavy traffic areas will still need to have conventional heavy duty pavement installed.
- IV. Bicycle racks shall be provided within each shopping center or for individual buildings. One bike rack shall be provided for every five percent of vehicle parking spaces.
- V. Parking lot plantings shall be maintained to ensure ongoing stormwater detention functions.

- g. Outdoor Lighting Standards: All outdoor parking lot and building lighting shall comply with the Village light standards and the International Energy Conservation Code 2009 or as amended by the International Code Council. The Outdoor Lighting Code Handbook issued by the International Dark-Sky Association should be used to eliminate unnecessary light pollution and improve energy efficiency.

8. **Tree Protection:**

- a. Purpose: While allowing for reasonable development of land within the Village, it is the stated public policy of the Village to add to the native tree population where possible and to maintain, to the greatest extent possible, existing native trees within the Village. In particular, it is the Village's policy to preserve and restore remnant woodlands, particularly oak-hickory savannas and woodlands that define the historical landscape of much of the Village. The preservation of existing trees and the planting of additional trees are intended to accomplish the following objectives:
  - I. To preserve trees as an important public resource, enhancing the quality of life and the general welfare of the Village;
  - II. To conserve and enhance the Village's unique character and physical, historical, and aesthetic environment;
  - III. To encourage the protection of healthy trees and provide for the replacement and/or replanting of trees removed during construction, development, or redevelopment;
  - IV. To prevent clear-cutting of native trees and to minimize mass grading;
  - V. To aid in the reduction of air pollution through the transformation of carbon dioxide, the generation of oxygen, and the precipitation of dust and other airborne pollutants;
  - VI. To reduce noise pollution through the barrier effect of trees on the spread of noise;
  - VII. To reduce topsoil erosion through the soil retention effect of tree roots;
  - VIII. To reduce energy consumption through the natural windbreak and shade-producing functions of trees;
  - IX. To preserve and enhance nesting areas for birds, insects, and other wildlife that are essential to the maintenance of the food chain and that help control and eliminate disease-carrying mosquitoes;
  - X. To reduce stormwater runoff and replenish ground water supplies;

and

XI. To protect and increase property values.

b. Submittals and Standards:

- I. As part of the preliminary submittal, the petitioner shall submit a tree survey, pursuant to the requirements of Chapter 5.15, Trees and Tree Preservation/Replacement (Located on Both Public and Private Property), and Chapter 30, Landscaping Code, of this Code and as provided herein, and a tree preservation plan prepared by a qualified arborist, forester, or similarly qualified professional in the field of natural resources that is acceptable to the Village. Failure to submit these items shall be a valid reason to withhold approval. The tree survey shall include:
  - i. A scaled drawing that shows the location of all tree species having a diameter at breast height (DBH) of 4 or more inches, including dead or dying trees. In the case of a multi-stemmed tree, the diameter of the clump taken as a whole shall be used. The survey shall include, at a minimum, an inventory listing individual trees by tag number, the tree species by common name and scientific name, DBH, condition, and any observed problems.
  - ii. Where trees are located in a permanently dedicated conservation easement or protected through deed restriction and will be free from any grading activity, identification of individual trees is not required. However, a survey of this area may be necessary for the Open Space Management and Stewardship Plan.
  - iii. Where individual trees or stands of trees are removed on property proposed for development or that is the subject of a development approval petition, including a subdivision, planned development, or special use, the Village may require that the area containing the removed trees or stands of trees be replanted and that said area be dedicated as, and made subject to, a tree preservation easement and be maintained in perpetuity as open space.
- II. Where mass removal or clear-cutting of trees has occurred two years or less prior to the preparation of a required tree inventory, the Village shall not process a request for approval of a subdivision until at least one year has elapsed unless further processing of said request is approved by the Village Board.
- III. During development and construction activity, all reasonable steps shall be taken to prevent damage to or destruction of protected



trees. These steps shall include:

- i. Soils shall not be removed, compacted, or otherwise disturbed within the critical root zone.
  - ii. A protective fence approved by the Village shall be erected around the critical root zone of any protected tree or woodland zone. Signage shall be affixed to said fence indicating the presence of the critical root zone and a protected area.
  - iii. All trees on property adjacent to the subject site and within 10 feet of the site's property line, or have a critical root zone extending into the subject site, shall be protected from unreasonable damage by the use of acceptable tree protection measures.
  - iv. Mass cuts and mass grading are discouraged to minimize disturbance of woodland or blocks of tree stands.
  - v. Where feasible directional boring shall be used to install any underground utilities in tree zones.
  - vi. The petitioner shall ensure that all applicable subcontractors are trained in proper tree protection.
  - vii. No excess soil, additional fill, equipment, trailers, liquids, material storage, or construction debris shall be placed within the identified critical root zone of any tree that is to remain at its original location.
  - viii. Only protective, non-damaging devices or attachments shall be attached to any tree during construction.
  - ix. Crushed limestone, hydrocarbons, and other materials detrimental to trees shall not be dumped within the root zone of any tree, nor at any higher location where drainage toward the tree could conceivably affect the health of the tree.
  - x. Other measures such as construction pruning and root pruning of trees directly impacted by construction must be included on the tree preservation plan and must be approved by the Village Arborist prior to any work.
  - xi. If the Village Arborist determines that trees in the way of construction can be transplanted, the contractor shall transplant the trees on site or provide them to the Village.
- c. Tree Replacement: Invasive trees and shrubs such as common buckthorn

(*Rhamnus cathartica*), glossy buckthorn (*Rhamnus frangula*), honeysuckle (*Lonicera* sp.), and other exotic species are commonly removed as part of good forestry practices and ecological restoration activities and, therefore, are not treated or acknowledged as protected tree species. Further, aggressive native trees such as box elder (*Acer negundo*) and black cherry (*Prunus serotina*) are sometimes removed as part of ecologic restoration projects in oak-hickory savannas and woods. Proposals to remove such trees shall be identified in the Open Space Stewardship Plan and submitted to the Village for review and approval.

Any protected tree removed pursuant to Village approval shall be replaced as provided for below:

- I. All replacement trees shall be 3 inches DBH or more. Trees of high quality and those typically found at a nursery, as determined by the Village Arborist, shall be replaced at a DBH ratio of 2 to 1. Trees so removed that are of a species considered opportunistic and not typically available at a nursery, as determined by the Village Arborist, shall be replaced at a DBH ratio of one-half to 1. The cumulative replacement DBH, based upon this formula, shall equal or exceed the diameter of the tree or trees so removed.
- II. When a high density of trees is not appropriate or the full replacement of trees on-site would result in the unreasonable crowding of trees, a fee-in-lieu payment of \$100 per caliper inch for tree replacement and ecological restoration may be approved by the Village.
- III. A tree replacement plan shall be prepared by a qualified arborist, forester or similarly qualified professional in the field of natural resources and familiar with the native ecosystems of the Chicago region who is acceptable to the Village. The tree replacement plan shall depict the location and corresponding elevation of each replacement tree and each preserved tree. Corresponding text shall state the species and diameter of each tree with a description of the proposed management strategy to ensure its health and survival on the property.
- IV. Replacement trees shall be high quality and locally grown. Whenever possible, trees with local genotypes (*from a 250-mile radius*) shall be used, subject to approval by the Village. All trees shall be installed free of disease and in a manner that ensures the availability of sufficient soil and water to sustain healthy growth.
- V. Trees planted in the right-of-way for the required street trees shall not be counted as part of the reforestation or replacement trees. Unless otherwise approved by the Village, replacement trees shall be selected from the following native species:

<b>Desirable Native Tree Species</b>	
<b><i>Evergreen Trees</i></b>	
<i>Pinus strobus</i>	eastern white pine
<b><i>Deciduous Small Trees</i></b>	
<i>Amelanchier arborea</i>	downy serviceberry, juneberry, shadbush, service tree
<i>Aralia spinosa</i>	Devil's walking stick, Hercules' club
<i>Asimina triloba</i>	Pawpaw
<i>Carpinus caroliniana</i>	American hornbeam, blue-beech, musclewood
<i>Cercis canadensis</i>	eastern redbud
<i>Cornus alternifolia</i>	alternate-leaved dogwood, Pagoda dogwood
<i>Cornus florida</i>	flowering dogwood
<i>Crataegus crus-galli</i>	cockspur hawthorn
<i>Crataegus mollis</i>	downy hawthorn, red haw
<i>Crataegus phaenopyrum</i>	Washington hawthorn
<i>Hamamelis virginiana</i>	common witchhazel
<i>Ilex decidua</i>	possumhaw, swamp holly, winterberry
<i>Malus coronaria</i>	sweet crab apple
<i>Malus ioensis</i>	prairie or Iowa crab apple
<i>Ostrya virginiana</i>	Eastern hophornbeam, ironwood
<i>Ptelea trifoliata</i>	common hop tree, wafer-ash, stinking-ash
<i>Viburnum lentago</i>	nannyberry, sheepberry
<i>Viburnum prunifolium</i>	blackhaw, nannyberry
<b><i>Deciduous Medium Sized Trees</i></b>	
<i>Acer rubrum</i>	red maple
<i>Aesculus glabra</i>	Ohio buckeye
<i>Diospyros virginiana</i>	common persimmon
<i>Morus rubra</i>	red mulberry
<i>Populus tremuloides</i>	quaking aspen
<i>Prunus virginiana</i>	common chokecherry
<i>Quercus marilandica</i>	blackjack oak
<i>Quercus phellos</i>	willow oak
<i>Quercus stellata</i>	post oak
<i>Salix amygdaloides</i>	peachleaf willow
<i>Sassafras albidum</i>	sassafras
<i>Ulmus alata</i>	winged elm, cork elm, wahoo
<b><i>Deciduous Large Trees</i></b>	
<i>Acer saccharum</i>	sugar, hard, or rock maple
<i>Betula nigra</i>	river or red birch
<i>Carya cordiformis</i>	bitternut hickory
<i>Carya illinoensis</i>	pecan
<i>Carya ovata</i>	shagbark or shellbark hickory
<i>Carya tomentosa</i>	mockernut or white hickory
<i>Catalpa speciosa</i>	Northern or Western catalpa
<i>Celtis occidentalis</i>	hackberry
<i>Fagus grandifolia</i>	American beech
<i>Gymnocladus dioicus</i>	Kentucky coffeetree
<i>Juglans nigra</i>	black walnut

<i>Liquidambar styraciflua</i>	sweetgum, redgum
<i>Liriodendron tulipifera</i>	yellow-poplar, tuliptree, tulip-magnolia, tulip-poplar
<i>Magnolia acuminata</i>	cucumber tree or magnolia
<i>Nyssa sylvatica</i>	black tupelo, blackgum
<i>Platanus occidentalis</i>	American sycamore or planetree, buttonwood, buttonball-tree
<i>Populus deltoides</i>	Eastern cottonwood
<i>Prunus serotina</i>	black cherry
<i>Quercus alba</i>	white oak
<i>Quercus bicolor</i>	swamp white oak
<i>Quercus imbricaria</i>	shingle oak
<i>Quercus macrocarpa</i>	bur oak
<i>Quercus muehlenbergii</i>	chinquapin oak, yellow chestnut oak
<i>Quercus palustris</i>	pin oak
<i>Quercus rubra (Q. borealis)</i>	northern red oak
<i>Quercus shumardii</i>	Shumard oak
<i>Quercus velutina</i>	black oak
<i>Salix nigra</i>	black willow
<i>Tilia americana</i>	American basswood, or linden

VI. Consistent with good forestry and ecological practices, replacement trees shall be of either equivalent or a superior quality of species. For example, a softwood tree may be replaced with a hardwood tree, but a superior species shall not be substituted for an inferior species. In order to preserve and enhance the oak-hickory forest native to McHenry/Kane Counties, oak and hickory trees must be replaced in kind with native oak and hickory species.

VII. The following trees shall not be used to satisfy the requirements of these tree standards:

<b>Prohibited Tree Species</b>	
<i>Acer negundo</i>	Box Elder
<i>Acer plantanoides</i>	Norway Maple
<i>Acer saccharinum</i>	Silver Maple
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Elaeagnus angustifolia</i>	Russian Olive
<i>Elaeagnus umbellata</i>	Autumn Olive
<i>Fraxinus species</i>	Ash species
<i>Gleditsia triacanthos</i>	Honey Locust
<i>Juniperus virginiana</i>	Red Cedar
<i>Populus species</i>	Poplar species
<i>Rhamnus cathartica</i>	Common buckthorn
<i>Rhamnus fragula</i>	Glossy buckthorn
<i>Robina pseudoacacia</i>	Black locust
<i>Taxodium distichum</i>	Bald Cypress
<i>Thuja occidentalis</i>	Arbor vitae

Note: Final approval and release of improvement guarantees shall not occur until a final inspection by the Village confirms that the conditions of the tree preservation plan and tree replacement plan have been met. In the event that conditions of either plan cannot be met, an alternative plan shall be prepared or a fee-in-lieu of payment, to be determined by the Village, may be used to meet the objectives of this Section.

9. **Open Space Requirements:** Required open space shall be 40 percent of the gross acreage for residential developments. Open space also shall be required for non-residential land uses based on the site coverage ratio and any associated site coverage bonuses and a minimum of 25 percent of the gross acreage. Open space includes land and water areas retained for active or passive recreation uses and/or for resource protection and generally will be in an undeveloped state. Open space includes, but is not limited to, the following:
- a. Woods and savannas;
  - b. Wetlands and wetland buffers;
  - c. Streams, waterways, lakes, and ponds;
  - d. Prairies and grasslands;
  - e. Floodplains (credited up to 25 percent of the required open space);
  - f. Naturally landscaped common areas and buffers;
  - g. Walking or bicycle trails;
  - h. Naturalized stormwater detention and drainage facilities (only half of the total detention area can count towards open space credit);
  - i. Areas of greater than 12 percent slope;
  - j. Pasture and agricultural cropland areas;
  - k. Manicured turf grass areas such as those on golf courses, required parkland dedication, playgrounds and recreational fields (credited up to 10 percent of the required open space); and
  - l. Other conservation-oriented uses compatible with the intent and purposes of this Section, subject to Village approval.

Areas counted toward this open space requirement shall not include parkways, landscape islands, or similar isolated features. Yard and setback areas on individual lots shall not be considered natural areas or open space unless designated on a recorded final plat of subdivision.

- a. Open Space Protection Hierarchy: In developing an open space protection plan to meet the requirements specified above, preference shall be given to land, not necessarily undisturbed, that either retains or has been substantially restored to its original natural or native character. The areas to be preserved shall be identified on a site-specific basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
  - I. First priority shall be given to intact natural communities; habitats of rare and endangered species; natural and restored wetlands, prairies, savannas and woodlands; environmental corridors; significant historic and archaeological properties; and steep slopes.
  - II. Second priority shall be given to natural landscaped areas created to provide plant and wildlife habitat and open space amenities.
  - III. Third priority shall be given to areas providing little habitat but providing viewshed, recreation, or a sense of open space.
- b. Standards of Design for Open Spaces:
  - I. An open space conservation theme, or combination of themes, shall be identified at the time of initial application. Conservation themes shall be based on the natural resource features of the development site and may include, but are not limited to, groundwater recharge protection, woodland stewardship, water quality preservation and enhancement, native landscape restoration and preservation, natural habitat restoration, viewshed preservation, and/or archeological and historical preservation.
  - II. Conservation developments shall preserve, restore, and/or create environmentally sensitive areas, as identified above, and shall include plans and the means to restore, manage, and maintain such areas. The goal is for the natural areas to reach a status where only routine ecologic management such as controlled burns and weed vigilance, is necessary.
  - III. The development layout shall take into consideration how abutting land with significant natural areas and resources will impact or be impacted by the development. Natural areas on adjacent properties shall be buffered with open space, and existing wildlife corridors and sensitive ecosystems shall be preserved and enhanced.
  - IV. Open space shall be preserved as large contiguous areas to optimize habitat conservation, minimize fragmentation, and facilitate efficient ecologic management.

- V. The open space network shall be designed to facilitate easy access from all streets and neighborhoods within the development. Open space should be interconnected with greenways and trail systems, both within the development site and connecting to adjacent development, and to local and regional trails. The Village may restrict some access by the public in order to protect sensitive or rare natural features.
  - VI. Open space shall be dedicated as “common open space” to be owned by a qualified conservation agency or the homeowners’ or property owners’ association.
  - VII. Designated open space areas shall not be enclosed with solid fencing, with the exception of areas containing natural or cultural features that may require special protection; split-rail fencing may then be appropriate.
  - VIII. Open space areas shall be maintained in perpetuity and shall not be improved with any buildings, structures, or other development unless approved by the Village, and where such buildings or structures will not negatively impact the natural and open space areas. Exceptions include simple shelters, viewing stands, interpretive signs, and benches that are compatible with passive open space uses. This restriction shall run with the land and be binding on future owners, successors, and assigns of the grantee.
  - IX. A permanent public access easement shall be recorded on the plat to grant access to open space areas for the general public.
  - X. All new residents shall be educated on the open space areas, including restrictions, benefits, value, maintenance, and fees.
- c. Prohibitions: Open space uses and disturbances that conflict with the stated conservation purposes of this Section are prohibited. These include, but are not limited to:
- I. Dumping of grass clippings, yard waste, debris, or other objectionable material;
  - II. Storage of materials, vehicles, etc.;
  - III. Removal of native vegetation or trees, except as identified in the approved Open Space Management and Stewardship Plan;
  - IV. Introduction of exotic plant species;
  - V. Filling, dredging, grading, drilling, or removal of soil or other natural materials; and

- VI. Manipulation or alteration of natural water courses or wetlands except to enhance natural conditions as identified in the approved Management and Stewardship Plan.

The Village shall be allowed, but not obligated, to enforce regulations in open spaces through Chapter 23, Building Codes, Chapter 24, Property Maintenance Code, Chapter 11.08, Preservation and Regulation of Natural Areas, of this Code, and covenants, conditions and restrictions.

## 10. **Open Space Ownership and Funding:**

- a. Ownership Options: The ultimate owner of the open space, as well as the entity responsible for maintaining it, shall be identified. Ownership options for the open space include:
  - I. A public agency (e.g., qualified public land conservation organization, the McHenry County Conservation District or the Village) with demonstrated expertise in natural area and open space management. This is a preferred option. Such agency may, but is not required to, accept dedication in the form of fee-simple ownership of the designated natural area provided it has access to and agrees to maintain such natural areas and open space.
  - II. A not-for-profit entity (e.g., qualified public or private land conservation organizations such as the Land Conservancy of McHenry County) whose primary purpose is the preservation and maintenance of conservation areas and natural resources. This also is a preferred option. Such conservation areas and natural resources shall be established in the form of conservation easements.
  - III. A homeowners' or property owners' association. This is an acceptable option if it is not practical or appropriate to make arrangements for options I or II above. Membership in such an association shall be mandatory for the owners and purchasers of all lots and/or parcels in the development. The association shall be responsible for all maintenance, control, and insurance of common areas, including the dedicated natural areas.
- b. Binding Legal Instrument Required: Prior to the sale of any individual lot within a conservation design development, a letter of awareness shall be signed by each property owner and recorded with the appropriate Recorder of Deeds notifying the property owner and any future property owners about the open space.

Dedicated open space shall be protected in perpetuity by a binding conservation easement or similar binding legal instrument recorded with the appropriate Recorder of Deeds. The entity shall be responsible for all maintenance, control, and insurance of common areas, including dedicated open space and natural areas.



- c. Funding Requirements and Options: Secure and permanent funding arrangements shall be established for the long-term management and maintenance of both common open space and deed-restricted open space. Funding options may include:
- I. If a homeowners' or property owners' association is the owner, membership in the association shall be mandatory and automatic for all lot and parcel owners and their successors. The association shall have lien authority to ensure the collection of dues and fees from all members. The responsibility for maintaining the open space and any facilities located thereon shall be paid by the owner. In the event an association ceases to exist, the responsibility for maintaining the open space and any facilities located thereon shall be paid by all lot and parcel owners. The Village shall have the right, but not the obligation, to maintain open space areas and lien properties if the homeowners' or property owners' association fails to do so. A backup special service area (35 ILCS 27/5 *et seq.*) shall be established as part of the development process and will be enacted if the homeowners' or property owners' association fails to maintain the open space.
  - II. An endowment fund: Such a fund could be based on a variety of methods and could be held by an approved conservation organization. Clear notice shall be provided by the petitioner to buyers for any responsibility for such fees. A backup special service area would also be required.
  - III. A special service area shall be established to provide ongoing funding for restoration and maintenance of the open space areas that are dedicated to the Village.
  - IV. A combination of methods: For example, an endowment fund could be used to offset or reduce future association dues.
- d. Corrective Action: If, at any time, the Village determines that the open space management entity is in violation of the terms of this Section or that a violation is threatened, the Village shall give written notice of such violation and demand corrective action sufficient to cure the violation and, where necessary, restore the portion of the property so injured. If the open space management entity fails to cure the violation within 30 days after receipt of notice thereof from the Village or, under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to commence or fails to continue diligently to cure such violation until finally cured, the Village may bring an action to enforce the terms of this Section and recover the costs of such corrective action from the homeowners' or property owners' association, conservation organization, not-for-profit organization, or individual property owners, and may include administrative costs and penalties.

If the Village, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the property, the Village may pursue its remedies under this Section without prior notice to the open space management entity. Under such circumstances, the Village may enter dedicated open space areas in order to take corrective action necessary to ensure compliance with this Section and the provisions of long-term management and stewardship. A maintenance easement shall be granted to the Village and recorded on the plat.

11. **Open Space Management and Stewardship:**

- a. Stewardship Plan: A stewardship plan shall be prepared by a qualified person/company, as determined by the Village, and submitted to the Village to identify the means to properly maintain and manage dedicated open space in perpetuity. The purpose of the plan is to ensure that the overall design intent for naturalized open space areas – including wetlands, prairies, woodlands, savannas, naturalized detention basins, drainage swales, and buffers – is achieved and maintained, particularly during the initial restoration and plant establishment phase. Such areas are intended to provide an aesthetic, healthy, and diverse community of native vegetation to meet the objectives of wildlife habitat, soil stabilization, groundwater recharge, and water quality protection. The plan shall be subject to approval by the Village as part of the development review process and recorded in the covenants for the development.

The plan shall address and/or allocate:

- I. The short-term enhancement and restoration of remnant natural areas and the establishment of new natural landscapes;
- II. The long-term ecologic stewardship of such areas;
- III. The responsibility and guidelines for performing said tasks and shall include any necessary provisions for replacement costs and long-term capital improvements;
- IV. The yearly site assessment, activities, and documentation of status.
- V. Serve as an education resource for future residents and property owners;
- VI. Designate and map the ownership of natural features and dedicated open space;
- VII. Allocate responsibility and guidelines for the maintenance and operation of the dedicated open space and any facilities located

thereon, including provisions for ongoing maintenance and long-term capital improvements;

VIII. Estimate the cost and staffing requirements needed for maintenance and operation of, and insurance for, the dedicated open space and describe the means by which such funding will be obtained or provided;

IX. Provide that the plan shall not be changed without the approval of the Village and describe how the plan will be enforced; and

X. Allow for volunteer work days.

- b. Performance Standards: The establishment of native vegetation communities shall be carefully planned and executed to ensure long-term success. Restoration and native planting efforts should be considered on an equal basis with other major infrastructure improvements of a development, such as roads, utilities, and building standards. Without performance standards, open space restoration and native plant establishment have the potential to fail, leaving future homeowners' or property owners' associations, or the Village, with major management problems that they may not have the expertise or resources to address. Therefore, it is important to provide reasonable performance standards to regulate the planning, establishment, and monitoring success of restoration and native plantings within developments.

Performance measures and performance standards are critical components of any natural area report. These performance criteria describe measurable attributes that can be used to evaluate success in meeting the goals and objectives of a restoration, native planting, enhancement, or creation project. Such projects can consist of wetlands, prairies, savannas, woodlands, fens, stormwater facilities, and buffer zones. Performance measures and standards describe a desired state, threshold value, amount of change or trend to be achieved for a particular population or habitat characteristic. In some cases, these performance criteria may set limits on the extent of undesirable change.

Performance measures and performance standards serve two distinct purposes. Performance measures are used to guide site management activities during the monitoring period. Performance standards are benchmarks measured during the final year of monitoring that are used to help evaluate compliance with regulatory requirements.

To be effective, performance measures and standards must be measurable, meaningful, and achievable. A direct connection must also be evident between these performance criteria and the goals and objectives of the project. Six elements are required for complete and clearly written measures and standards:

- I. *Species or habitat indicator*: identifies what will be monitored.
- II. *Location*: mitigation site or planting zone.
- III. *Attribute*: aspect of the species or habitat indicator (e.g., size, density, cover).
- IV. *Action*: the verb of your objective.
- V. *Quantity or status*: measurable status or degree of change for the attribute.
- VI. *Timeframe*: the time needed for management to prove itself.

If one or more of these six elements is undocumented or unclear in the mitigation report, clarification should be requested from the authors of the report.

Example:

Goal: To provide wildlife habitat at the Woods Creek wetland site.

Objective: Wildlife habitat functions will be improved by establishing native woody cover in the scrub-shrub wetland at the Woods Creek project site.

Performance standard: After five years (20\_\_ ) [*timeframe*], aerial cover [*attribute*] of native woody species [*species or habitat indicator*] will be [*action*] at least 50 percent [*quantity*] in the scrub-shrub wetland of the Woods Creek project site [*location*].

- c. Suggested Performance Measures and Performance Standards: Variability in site design and conditions makes it challenging to establish a standard set of performance criteria. For this reason, numerical targets in the following sample performance measures and performance standards have been omitted. To make sure performance criteria are meaningful and achievable for a project, site-specific targets should be based on the following:

- I. Details of the planting plan (e.g., patterns of plant distribution, planting density, and species mix);
- II. Environmental characteristics of the project site;
- III. Landscape position and condition of surrounding habitats;
- IV. Area land use activities and anticipated level of disturbance;
- V. Goals and objectives of the project plan; and

VI. Results from other restoration projects in the area.

The following suggested performance criteria incorporate the six elements of a complete and clearly written performance measure or performance standard.

I. Wetland Hydrology:

Performance Measure (all years)

In the intended wetland area, soils will be saturated to the surface, or standing water will be present within 12 inches of the surface for at least \_\_\_ consecutive weeks (\_\_\_ percent) of the growing season in years when rainfall meets or exceeds the 30-year average at the Woods Creek project site.

Performance Standard (final year of monitoring)

The wetland area at the Woods Creek project site will be delineated using current methods to assure that the project site contains \_\_\_ \_\_\_\_\_ acres of wetland.

II. Native Plant Species in the Wetland:

Performance Measure (Year-3)

Aerial cover of native, wetland (facultative and wetter) herbaceous plant species will be at least \_\_\_ percent in the emergent wetland at the Woods Creek project site.

Performance Standard (final year of monitoring)

Aerial cover of native, wetland (facultative and wetter) herbaceous plant species will be at least \_\_\_ percent in the emergent wetland at the Woods Creek project site.

III. Trees and Shrubs in the Wetland:

Performance Measure (first year plant establishment period only)

Planted woody species in the scrub-shrub (and/or forested) wetland at the Woods Creek project site will achieve at least \_\_\_ percent survival one year after the site is planted. If all dead woody plantings are replaced, the performance measure will be met.

Performance Measure (Year-1 and Year-3)

Native woody species (planted and volunteer) will achieve an average density of at least \_\_\_ plants per \_\_\_ in the scrub-shrub (and/or forested) wetland at the Woods Creek project site.

Note: Density should be expressed as the number of plants per unit area. (For example, if plantings are 5 feet on center, there will be

an average four plants per 100 square feet with square spacing, or five plants per 100 square feet with triangular spacing.)

Performance Measure (Year-5)

Aerial cover of native woody species will be at least \_\_\_ percent in the scrub-shrub (and/or forested) wetland at the Woods Creek project site.

Performance Standard (final year of monitoring)

Aerial cover of native woody species will be at least \_\_\_ percent in the scrub-shrub (and/or forested) wetland at the Woods Creek project site.

IV. Trees and Shrubs in the Upland Buffer:

Performance Measure (first year plant establishment period only)

Planted woody species in the upland buffer at the Woods Creek project site will achieve \_\_\_ percent survival one year after the site is planted. If all dead woody plantings are replaced, the performance measure will be met.

Performance Measure (Year-1 and Year-3)

Native woody species (planted and volunteer) will achieve an average density of at least \_\_\_ plants per \_\_\_ in the upland buffer at the Woods Creek project site.

Performance Measure (Year-5)

Aerial cover of native woody species will be at least \_\_\_ percent in the upland buffer at the Woods Creek project site.

Performance Standard (final year of monitoring)

Aerial cover of native woody species will be at least \_\_\_ percent in the upland buffer at the Woods Creek project site.

V. Woody Species Plant Diversity:

Performance Measure (Year-5)

At least \_\_\_ native, facultative, and wetter woody plant species will achieve a minimum \_\_\_ percent relative cover for each species in the scrub-shrub (and/or forested) wetland at the Woods Creek project site.

Performance Standard (final year of monitoring)

At least \_\_\_ native, facultative, and wetter woody plant species will achieve a minimum \_\_\_ percent relative cover for each species in the scrub-shrub (and/or forested) wetland at the Woods Creek project site.

- VI. Invasive Species: The list of invasive species in performance measures and standards should include those species that can be controlled with management. Species lists will vary based on site location, project type, and an assessment of threats from invasive species to the project.

Performance Measure (all years)

Undesirable, weedy, and non-native species will not exceed \_\_\_ percent aerial cover at the Woods Creek project site.

Performance Standard (final year of monitoring)

Undesirable, weedy, and non-native species will not exceed \_\_\_ percent aerial cover at the Woods Creek project site.

<b>Examples of Invasive Plants</b>	
<i>Phalaris arundinacea</i>	Reed canary grass
<i>Phragmites australis</i>	Common reed
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Cirsium spp., Carduus spp.</i>	Non-native thistle
<i>Melilotus spp.</i>	Sweet clover
<i>Coronilla varia</i>	Crown vetch
<i>Pastinaca sativa</i>	Wild parsnip
<i>Arctium spp</i>	Burdock
<i>Alliaria petiolata</i>	Garlic mustard
<i>Dipsacus spp.</i>	Teasel
<i>Ambrosia spp.</i>	Ragweed
<i>Poa pratensis</i>	Kentucky bluegrass
<i>Rhamnus spp.</i>	Buckthorn
<i>Salix interior</i>	Sandbar willow
<i>Lonicera spp.</i>	Honeysuckle
<i>Acer negundo</i>	Box elder
<i>Rosa multiflora</i>	Multiflora rose
<i>Typha angustifolia</i>	Narrow leaf cattail

- VII. Wildlife Habitat: Establishing meaningful and achievable performance measures and performance standards for wildlife can be difficult. Changes we observe in wildlife communities may have more to do with activities off-site and beyond our control than changes that actually occur on our mitigation sites. Frequently, attributes of the vegetative community (e.g., woody cover) are used

as a surrogate for direct observations of wildlife. In this case, wildlife observations recorded from the site can be used to support and complement findings from vegetation surveys. Snags, large woody debris, and brush or rock piles are often installed to improve wildlife habitat features on natural area project sites. A simple count of habitat structures may be all that is necessary to document installation according to plan. Wildlife observations can be used to supplement these data and document wildlife use of habitat structures. The following provides an example performance standard.

Performance Standard (habitat structures) (Year-1)

Wildlife habitat structures including \_\_\_\_\_ snags and \_\_\_\_\_ large woody debris piles will be present at the Woods Creek project site.

- d. Annual Reporting: An annual monitoring report shall be submitted by the petitioner's qualified professional to the Village for review and shall include the following:
- I. A summary of vegetation data collected within each management unit, including an assessment of compliance with performance criteria.
  - II. A description of vegetation maintenance activities for the current year, including overseeding, replanting, and control of undesirable "weedy" species, and an assessment of their effectiveness in meeting performance criteria.
  - III. A maintenance budget for the current year.
  - IV. Photographs and accompanying descriptions taken at permanent monitoring stations.
  - V. A schedule of planned maintenance activities and budget for the coming year.
- e. Long-Term Monitoring and Management: Beyond the initial establishment and restoration period, regular maintenance and management shall be performed in perpetuity to continue to meet the performance criteria and to enhance natural ecologic conditions over time. After the Village approves that the performance standards have been met, then long-term maintenance may begin.
- I. Long-term monitoring, consistent with the criteria specified above, shall be performed on a biennial basis in perpetuity. Monitoring reports shall be submitted to the Village for review and approval.
  - II. Continued ecological management shall be provided to maintain a diverse native plant community, consistent with performance criteria, to minimize the proliferation of weeds and undesired woody



vegetation and to prevent erosion. At a minimum, the site shall continue to meet the vegetation performance standards of the third season, as specified above, with regard to erosion control, vegetation coverage, species diversity, and control of invasive species. Long-term maintenance shall consist of controlled burning, generally every one to three years, or as dictated by site conditions. To maintain the established native plant communities, spot control and application of herbicides shall be performed, as necessary.

III. Long-term maintenance shall include the removal of trash or debris and the removal of obstructions from detention basin outlet structures on a regular basis. Periodic removal of accumulated sediment from swales, forebays, and settling basins shall be done to maintain the function and aesthetics of stormwater facilities. At a minimum, sediment shall be removed from forebays and sediment basins when 1 foot or more of sediment has accumulated.

- f. Performance Bonding: The cost of natural landscaping and ecological restoration activities shall be included in the infrastructure estimate. The amount of the performance bond or letter of credit furnished by the developer shall be 120 percent of the amount to cover the cost of the work and materials required for these activities. Approval and release of performance bonds and/or letters of credit shall not occur until a final inspection by the Village verifies that initial performance criteria have been met. Upon this approval, the performance bond or letter of credit will be released, provided a maintenance bond is established for a period covering three years. When the performance standards have been met, the Village shall allow the areas to be placed under the control of an approved conservation organization or homeowners' or property owners' association to implement the long-term management of the natural areas. In the event that conditions of performance criteria cannot be met, an alternative plan shall be prepared or a fee-in-lieu of performance, to be determined by the Village, may be used to meet performance criteria standards.
- g. Professional Land and Property Management: In identifying both short- and long-term management responsibilities for open space and natural areas, the petitioner shall identify a management entity with demonstrated experience and qualifications in natural land management and ecologic stewardship. Such entity may be a public or not-for-profit conservation agency as identified under Open Space Ownership and Funding. Alternatively, the entity may be a professional natural land management specialist or company.

In identifying the institutional arrangements for the management entity, the petitioner's stewardship plan shall address responsibilities for each of the following institutional provisions. These provisions shall be in place prior to any transfer of the property from the petitioner to the homeowners' or property owners' association or other management entity.

- I. Enforcement of covenants, conditions, and restrictions and the Stewardship Plan;
- II. Proper budgeting and management of finances;
- III. Collection of dues and/or fees;
- IV. Filing of required reports and taxes;
- V. Education and communication with property owners;
- VI. Insurance and risk management;
- VII. Maintenance of proper financial reserves; and
- VIII. Outsourcing.

**Section 21.12**  
**SPECIAL USES**

- A. PURPOSE.** The principal objective of this Chapter is to provide for an orderly arrangement of compatible building and land uses, and for the proper location of all types of uses required for the social and economic welfare of the Village. To accomplish this objective, each type and kind of use is classified as permitted in one or more of the various districts established by this Chapter. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses that it may be necessary to allow because of their unusual characteristics or the service they provide the public. These special uses require particular consideration as to their proper location in relation to adjacent established or intended uses, or to the planned development of the community. The conditions controlling the location and operation of such special uses are established by the following provisions of this Section
- B. AUTHORITY.** The Village Board shall have authority to permit the following uses of land or structures, or both, subject to conditions contained herein, if it finds that the proposed location and establishment of any such use will be desirable or necessary to the public convenience or welfare and will be harmonious and compatible with other uses adjacent to and in the vicinity of the selected site or sites. Unless otherwise limited by the Village Board, a special use is granted to the property, not a particular person. Conditions may be imposed to ensure compliance with this Section.
- C. SPECIAL USES.** The following uses require a special use permit in accordance with the zoning districts. Also refer to the OR&D and B-P Districts for additional uses that shall require a special use permit.
1. **Adult Business**, in the I-2 District only.
    - a. Purpose and Intent. It is the intent of this Section to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating Adult Business within the Village.
    - b. General Standards.
      - I. A separate special use permit must be issued for each Adult Business as defined in Section 3 herein.
      - II. Location Restrictions: No Adult Business shall be operated within 1,000 feet of a residential zoning district or within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and church. The distance limitation shall be measured in a straight line from the lot lines of said Adult Business and applicable residential zoning district, school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility, and place of religious worship.
      - III. Only one Adult Business shall be permitted per block face.

- IV. Sign Requirements: The following sign requirements shall apply to any Adult Business:
    - i. All signs shall be flat wall signs.
    - ii. The amount of allowable sign area shall be 1square foot of sign area per foot of lot frontage on a street, or as permitted by Chapter 29, Sign Code, of the Code, whichever is more restrictive.
    - iii. Window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. One, 1-square foot sign may be placed on the door to state hours of operation and admittance to adults only.
  - V. Advertising: No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.
  - VI. Alcoholic Liquor Prohibited: It shall be unlawful for any Adult Business to sell, distribute, or permit beer or alcoholic beverages on the premises.
2. **Airport, heliport, balloon port, ultralite port, landing field, or landing strip** in the I-2 District, subject to the Federal Aviation Administration certifying that a new or reoriented runway will not interfere with the flight pattern of any established airport, landing field, or landing strip.
  3. **Auditorium, amphitheater, stadium, arena, armory, gymnasium, billiard and pool room, game room, arcade, club, fraternal organization, night club, bowling alley, dance hall, amusement park, meeting hall, conference center, lodge hall, health club, theatre and movie theatre, and other similar places for public events** in any use district other than Residential Districts.
  4. **Bed and breakfast establishment.** Bed and Breakfast establishments, subject to the provisions of 50 ILCS 820/ *et seq.*, as amended, in R-4, R-5, B-1, B-2 and O-T Districts only.
  5. **Bulk storage, mini-storage, self-storage, climate-controlled facilities** in I-2 District only.
  6. **Bus terminal or any other public transportation terminal facilities** in any use district.
  7. **Cemetery or mausoleum** in any use district.
  8. **Chemical manufacturing** in B-P and I-2 Districts only.

9. **Church** in R-1, R-2, R-5, R-1A, and R-1E Districts only. Permitted by right in R-3, R-4, O-T, and I-2 Districts. Churches shall be on a minimum lot size of 10,000 square feet, with a 75-foot minimum width. The front yard setback shall be at least 30 feet, the rear yard shall be a minimum of 30 feet and the side yards at least 25 feet. The height of the building shall be a maximum of 45 feet with the tower no taller than 75 feet.
10. **Compost facility** in the I-2 District only.
11. **Day care center** in any use district other than Residential Districts.
12. **Dining, open air** designed for more than 12 customers, in B-1, B-2, O-T and OR&D Districts. In no case shall the open-air dining facility block the sidewalk or entrances, or extend beyond the storefront, or extend beyond the property limits.
13. **Drive-through/up service** in any use district, other than Residential and O-T Districts.
14. **Extraction or processing of gravel, sand, minerals or other raw materials including asphalt plant and concrete plant** in the I-2 District only.
15. **Fire station** in any use district.
16. **Freight terminal** in I-1, I-2, and B-P Districts.
17. **Funeral home, mortuary** in B-1, B-2, I-1 and I-2 Districts.
18. **Golf course, public or private** in any use district.
19. **Group home, halfway house** in B-1, B-2, R-4 and R-5 Districts.
20. **Gun ranges, skeet and trap shooting, archery ranges**, in the I-2 District only.
21. **Hospital** in any use district.
22. **Hotel, motel** in B-1, B-2 and O-T Districts. Permitted by right in the OR&D District.
23. **Kennel, animal shelter, veterinarian clinic, animal hospital, grooming, pet day care** in B-1, B-2, I-1 and I-2 Districts.
24. **Marina** commercial in B-1, B-2 and O-T Districts.
25. **Medical Cannabis, Cultivation** in the I-2 District only.
26. **Medical Cannabis, Dispensary** in B-2 and I-1 Districts and not permitted within 1,000 feet of Randall Road.
27. **Medical clinic/office** in B-1, B-2, OR&D, O-T, and B-P Districts. Not including massage therapist or optometrist when associated with retail eyewear store.

28. **Miniature golf, driving ranges, batting cages,** and other outdoor recreation uses in B-2, I-1 and I-2 Districts.
29. **Motor vehicle detailing, car wash, oil change, minor repair** in the B-2 District only and not permitted on lots with frontage on Randall Road, West Algonquin Road, East Algonquin Road, and Main Street.
30. **Motor vehicle (new) sales and services, automobile service station** in the B-2 District only.
31. **Motor vehicle (used) sales and services; major automotive repair; automobile bodywork and painting** in I-1 and I-2 Districts.
32. **Motor vehicle wrecking yard** in the I-2 District only.
33. **Motor vehicle and other private vehicle storage yard,** in the I-2 District only.
34. **Off-street parking areas and garages** in R-3, R-4 and R-5 Districts. Permitted by right in B-1, B-2, OR&D, I-1, I-2 and B-P Districts.
35. **Outside display, sales, and storage** in B-1, B-2, I-1, and I-2 Districts.
36. **Pawn shops or payday advance** in I-1 and I-2 Districts only, but not on any property within 1,000 feet of Randall Road or Algonquin Road, regardless of the zoning classification.
37. **Planned development** in any use district.
38. **Privately-owned recreation building or community center** in any use district.
39. **Private park or private playground** in any use district.
40. **Racetrack, raceway, race course** in the I-2 District only.
41. **Radio and television transmitting or antenna towers (commercial) and other electronic equipment requiring outdoor structures, and including antenna towers used for the sending of private messages but not including private receiving aerials, antennas, or towers** in any use district. Allowed in the I-2 District. *[PLEASE NOTE: Notwithstanding any provisions of this zoning code to the contrary, pursuant to Illinois Public Act 100-0585, The Small Wireless Facilities Deployment Act, effective June 1, 2018, small wireless facilities shall be classified as permitted uses if they are collocated in rights of way in any zone or outside of rights of way in property zoned exclusively for commercial or industrial use. By state law, such uses shall not be subject to zoning review or approval. The regulation for such facilities is now contained in the Village's Municipal Code at Section 39.24 - Small Wireless Facilities. All other qualifying facilities continue to be subject to the code provisions that follow.]*

- a. Purpose and Intent. To provide specific regulations for the placement, construction and modification of personal wireless service facilities. These provisions are not intended to prohibit and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Section be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services.
- b. Applicability.
  - I. Antennas or towers located on property owned, leased, or otherwise controlled by the Village provided a license or lease authorizing such antenna or tower has been approved by the Village.
  - II. Amateur Radio Station Operators/Receive Only-Antennas: This shall not govern any tower, or the installation of any antenna, that is less than 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.
  - III. AM Array: An AM array consisting of one or more tower units and supporting ground system that functions as one AM broadcasting antenna shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- c. General Requirements.
  - I. Lot Size: For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to setback requirements, lot-coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
  - II. Inventory of Existing Sites: Each applicant for an antenna and/or tower shall provide to the Community Development Department an inventory of its existing towers, antennas or sites approved for towers or antennas, that are either within the jurisdiction of the Village or within 1 mile of the corporate boundaries thereof, including specific information about the location, height and design of each tower.
  - III. Aesthetics: Towers and antennas shall meet the following requirements:
    - i. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color to reduce visual obtrusiveness.

- ii. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- iii. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure to make the antenna and related equipment as visually unobtrusive as possible.
- iv. Lighting: Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- v. State or Federal Requirements: All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
- vi. Building Codes; Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- vii. Measurement: For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Village irrespective of municipal and county jurisdictional boundaries.
- viii. Not Essential Services: Towers and antennas shall be regulated and permitted pursuant to this special use and shall not be regulated or permitted as essential services, public utilities, or private utilities.
- ix. Franchises: Owners and/or operators of towers or antennas shall certify that all franchises required by law for the



construction and/or operation of a wireless communication system in the Village have been obtained and shall file a copy of all required franchises with the Community Development Department.

- x. Signs: No signs shall be allowed on an antenna or tower.
  - xi. Buildings and Support Equipment: Buildings and support equipment associated with antennas or towers shall comply with the requirements of Chapter 23, Building Codes, of this Code.
  - xii. Multiple Antenna/Tower Plan: The Village encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- d. Information Required. In addition to any information required for applications for special use permits pursuant to this Section , applicants for a special use permit for a tower shall submit the following information:
- I. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
  - II. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
  - III. Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
  - IV. A notarized statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.
  - V. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the Village.
  - VI. A description of the suitability of the use of existing towers, other structures, or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - VII. A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering,

technological, or geographical limitations in the event the proposed tower is erected.

e. Factors in Granting Special Use Permit.

I. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Village Board that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Village Board related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- i. No existing towers or structures are located within the geographic area, that the meet applicant's engineering requirements.
- ii. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
- iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- vii. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

f. Site Requirements.

- I. Towers shall be set back a distance, as determined appropriate during the special use permit process, from any adjoining lot line.
- II. Guys and accessory buildings shall satisfy the principal structure minimum zoning district setback requirements.
- III. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1 herein, except as otherwise provided in Table 1.
- IV. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-Site Use/Designated Area	Separation Distance
Single-family or duplex residential units	200 feet or 300% height of tower, whichever is greater
Vacant single-family or duplex residentially zoned land that is either platted or has preliminary subdivision plan approval that is not expired	200 feet or 300% height of tower, <sup>1</sup> whichever is greater <sup>1</sup> Separation measured from base of tower to the closest building setback line.
Existing multiple-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

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

Table 2

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

Monopole less than 75' in height	750	750	750	750
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- VI. Security Fencing: Towers shall be enclosed by security fencing 6 feet in height and shall also be equipped with an appropriate anti-climbing device excluding barbed or razor wire fencing.
- VII. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound.

g. Buildings and Equipment Storage.

I. Antennas Mounted on Structures or Rooftops:

- i. The cabinet or structure shall not contain more than 300 square feet of gross floor area nor be more than 15 feet in height. In addition, for buildings and structures that are less than 65 feet in height, the related unmanned equipment structure, if over 150 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.
- ii. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 150 square feet or 20 percent of the roof area.
- iii. Equipment storage buildings or cabinets shall comply with all applicable building codes.

II. Antennas Mounted on Utility Poles or Light Poles:

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

an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.

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

III. Antennas Located on Towers:

- i. The related unmanned equipment structure shall not contain more than 300 square feet of gross floor area nor be more than 15 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
  - h. Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- 42. **Recycling drop-off centers** in I-1 and I-2 District, where, if in the I-1 District, there is no processing on-site other than bailing or bundling, and no outdoor processing or storage of any materials, equipment, or product of any kind.
  - 43. **Rest home, nursing home, assisted living** in B-1, B-2, R-4 and R-5 Districts.
  - 44. **Salvage yard, junkyard, waste disposal, waste recycling, or sanitary landfill** in the I-2 District only.
  - 45. **Schools, elementary, high and college, business or trade, public or private** in any use district.
  - 46. **Slaughter house** in the I-2 District only.
  - 47. **Tattoo and body piercing** in the I-2 District only.
  - 48. **Zoo** in any use district other than Residential Districts.
  - 49. And any other similar uses as determined by the Zoning Administrator in writing.

- D. CONDITIONS OF APPROVAL.** The Planning and Zoning Commission may recommend and the Village Board may impose such conditions or restrictions as appear necessary to minimize the possible detrimental effects of such special use upon other properties in the neighborhood or community.
- E. PROCEDURE.** The procedure to be followed in considering applications for special uses shall be as follows:
1. **Applications.** An application verified by the owner or authorized agent of the owner of the property involved shall be filed with the Community Development Department for the attention of the Planning and Zoning Commission that shall contain or be accompanied by all required information. Village application forms shall be used and are available in the Community Development Department.
  2. **Public Hearing.** Upon receipt of such verified application, the Community Development Department shall notify the Planning and Zoning Commission Chairperson who shall schedule a public hearing. Notice of said hearing shall be pursuant to Section 21.18, Public Hearings, herein.
  3. **Determination.** The Planning and Zoning Commission shall then make its findings and recommendations to the Village Board within 30 days following the date of the adjournment of the public hearing on each application. The Village Board may then authorize a special use as defined herein by specific ordinance, provided the evidence presented established beyond reasonable doubt:
    - a. That the proposed use at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community;
    - b. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity, or injurious to property values or improvements in the vicinity;
    - c. That the proposed use will comply with the regulations and conditions specified in this Chapter for such use and with the stipulations and conditions made a part of the authorization granted by the Village Board.
  4. **Appeal.** An applicant or other person who disagrees with the determination of the Village Board may file an appeal with the Village Board requesting it to reconsider its determination. Upon receipt of said appeal, the Village Board shall schedule and hold a new hearing on the special use application. Notice of the hearing shall be made in accordance with Section 21.18 herein. At the hearing, the Village Board will consider the evidence and witnesses presented by the applicant and any evidence and witnesses presented by any objectors. The proceedings shall be transcribed by a certified court reporter, and the Village shall maintain a full record of the proceedings. After all the evidence is presented, the Village Board shall make its

determination on the appeal. Any party dissatisfied with the Village Board's decision then has the right to appeal to the 22<sup>nd</sup> Judicial Circuit Court of McHenry County.

**5. Termination or Expiration of Special Uses (Including Planned Developments).**

The term and expiration of special use permits shall be as follows:

- a. Unless otherwise limited by the Village Board, the special use runs with the property, not an individual.
- b. No special use permit shall be valid for a period longer than 12 months unless such use is established within such period. Provided, however, that where such use permitted is dependent upon the erection or alteration of a building, the special use permit shall continue in force and effect if a building permit is obtained within such period and the erection or alteration is started and proceeds in accordance with such permit. The Village Board may, within a particular ordinance approving a special use permit, extend the period for initiating the special use upon a showing of good and sufficient cause without a further public hearing.
- c. Whenever any special use (including a planned development, or any portion of the planned development) has been discontinued for a period of six consecutive months, or whenever there is evidence of a clear intent on the part of the owner to abandon any portion of the special use, the special use permit shall be considered terminated subject to Section 21.12 E.5.e of this Code.
- d. No use that was authorized by a special use permit that has terminated, abandoned, unused, or expired shall be re-established unless the Village Board grants a new special use permit in accordance with this Chapter. In reviewing such a request, the Village Board shall not be obligated to consider the approval of, or the conditions of, any prior special use permit as precedent.
- e. The Village Board shall, in its sole discretion, determine whether the special use should expire or continue to run with the property. In the event the Village Board determines the special use is terminated, the special use shall not be re-established, nor the affected property re-developed, without a notice and a public hearing as provided for the establishment of a special use and as approved by the Village Board pursuant to this Chapter. When approving a special use for a land area that was previously granted a special use, the Village Board may establish stipulations and conditions for the property that results in a re-development that is consistent with the intent of the originally approved special use.

- F. OUTSIDE DISPLAY, SALES, AND STORAGE REGULATIONS.** No outside display, sale, or storage of materials (raw, semi-finished, or finished in nature), vehicles, equipment, merchandise, and other similar goods or containers shall be permitted except by issuance of a Special Use Permit. Consideration for the issuance of an Outside Display, Sales, and Storage Special Use Permit shall be based upon the following criteria:

1. A site plan, site lighting plan, sign design plan, landscape plan, engineering plan, and building elevations shall be provided, as applicable, to demonstrate that the proposed special use will not have a negative effect upon the surroundings or adjacent properties. An engineering plan that addresses stormwater management in accordance with Chapter 28, Stormwater Management, of the Code shall be required where paving of display, sales, or storage areas occurs, since such paving will contribute to or increase on-site runoff. A building permit and site development permit (as determined by the Public Works Department) must be issued prior to the use of any outside display area.
2. An on-site circulation plan for both pedestrians and vehicles illustrating the location of the outdoor display, sales, or storage area shall be provided that demonstrates that no adverse effect on circulation, parking, or general functioning of the site will occur.
3. All outdoor storage areas shall be enclosed by a screening fence, wall, berm, or densely planted evergreen hedge and associated appropriate landscaping treatment of a height sufficient to screen such containers, storage areas, or products from view of adjoining properties or public and private streets. The primary requirement shall be for landscaping screening. The substitution of walls or fencing shall be deemed a secondary solution subject to proof of hardship. Stored materials shall not exceed the height of the screening, and no materials, goods, vehicles, and the like may be displayed, sold, or stored outside of the screened area. Solid latchable doors or gates thereto shall be required. Walls or fencing shall be of the same material as the principal building or shall be of a compatible material. The Village shall reserve the right to regulate the nature, height, and location of the screening and to impose any other terms and conditions in the best interests of the Village as part of the review of the special use.
4. Written evidence shall be provided that standards and requirements for health, safety, and environmental protection required by the Village, as well as those required by jurisdictions other than the Village, have been met.
5. All activities involving the manufacturing, fabricating, assembly, disassembly, repairing, cleaning, servicing and testing of materials, products, vehicles, and goods shall be deemed ineligible for an Outside Display, Sales, and Storage Special Use Permit and shall be conducted solely within completely enclosed buildings.
6. All display, sales, and storage areas shall be confined to locations in the rear of the building erected on the premises, or at the side of said building and behind the front line of said building as extended, but not both, unless the applicant can demonstrate that no adverse impact is created.
7. Anything displayed, sold, or stored outdoors that has a tendency to be windborne shall be effectively covered so it is not windblown.
8. All areas to be used for outside displays, sales, or storage shall be paved with a hard surface, with a thickness of not less than 2 inches of asphalt or 4 inches of concrete, or as the Village shall otherwise require.



9. Existing outside display, sales, or storage uses that are rendered non-conforming by virtue of enactment of these regulations shall be made conforming with either issuance of the Special Use Permit or with screening approved by the Village or shall otherwise be removed within 6 months from approval of this Chapter.

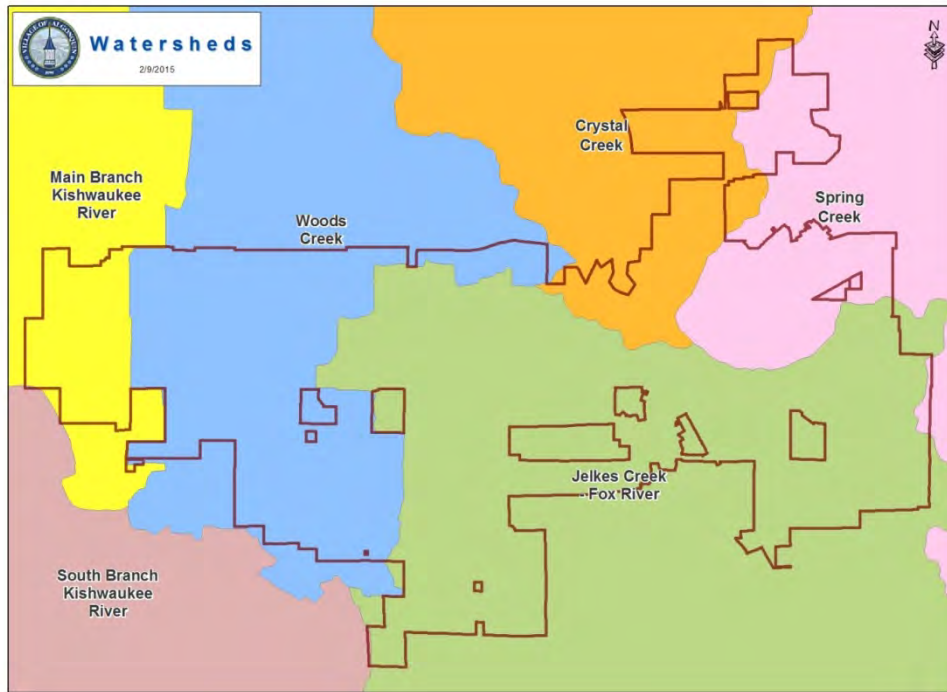
**G. VIOLATIONS.** See Section 21.22 Violations; Penalty, herein.

**Section 21.13**  
**WATERSHED PROTECTION OVERLAY DISTRICT**

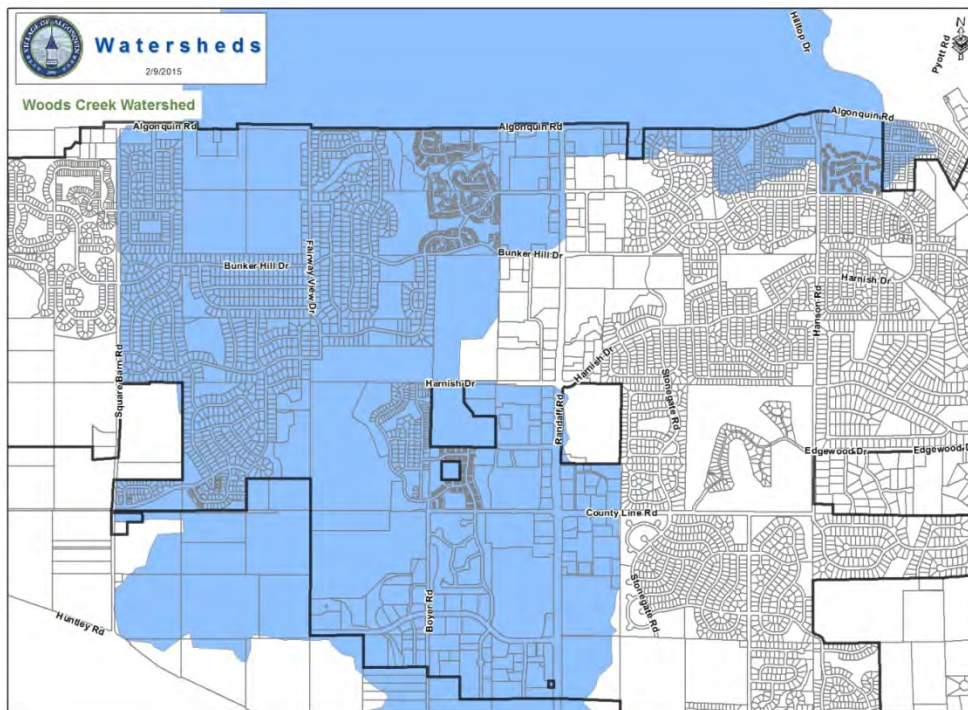
**A. AUTHORITY, PURPOSE, AND INTENT.**

1. **Authority.** The Watershed Protection Overlay District (District for purposes of this Section) is enacted pursuant to the police powers granted to the Village by the Illinois Compiled Statutes, 65 ILCS 5/11-13-1, *et seq.*
2. **Purpose.** The purpose of this District is to promote public safety, enjoyment, and general welfare of the public by preserving, protecting and enhancing the natural areas associated within each watershed.
3. **Intent.** The District is created to provide a means of implementing the adopted Watershed Based Protection Plans approved by the Village Board. Such action will protect the valuable natural resource within the Village for the enjoyment of the residents, providing habitat for native plant and animal communities, and maintaining the quality of the watersheds for the future. The District ensures appropriate measures are taken to preserve the watershed and still allow quality commercial and residential development simultaneously.
4. **Applicability.** All property to be developed and located within a watershed boundary with an approved Watershed Based Protection Plan shall conform to the standards of that specific Watershed Plan and this District. The approved watershed based plans include: the Woods Creek Watershed Based Plan, dated January 2013, prepared by Applied Ecological Services, Inc., and approved by the Village Board on September 17, 2013; and the Jelkes Creek-Fox River Watershed Action Plan, prepared by Geosyntec Consultants and approved by the Village Board on September 17, 2013.

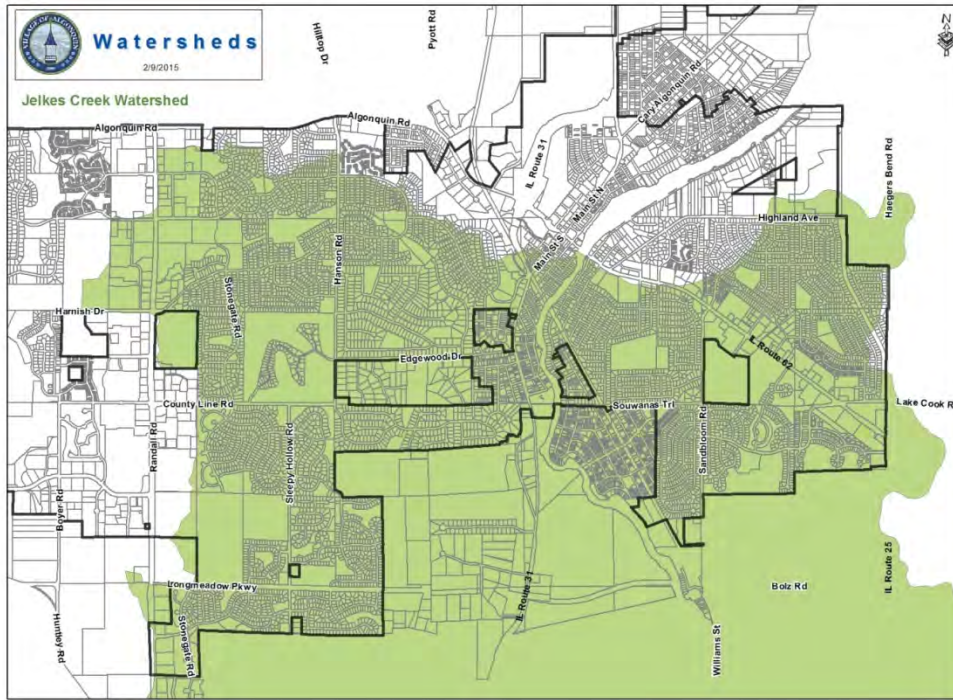
**B. WATERSHED DISTRICT BOUNDARIES.** Map 1, herein shows the estimated boundaries of the watersheds within the Village. See approved Watershed Based Protection Plans for specific parcel information.



Map 1 Watershed Boundaries



Map 2 Woods Creek Watershed Boundary



Map 3 Jelkes Creek Watershed Boundary

**C. DEVELOPMENT REQUIREMENTS.** All developments within the District shall meet the following requirements.

1. Each development proposed within the District shall be a planned development, see section 21.11 Planned Developments and Conservation Design Standards and Procedures.
2. Each planned development shall take into consideration the size and type of proposed use, proximity to the creek and rare fens and wetlands to determine the best management practices for the development, all in accordance with the approved watershed based protection plan.
3. Site design and structural and administrative considerations shall be given to each project to reduce negative impacts to the District.
4. Eco-corridors. All natural resource areas within the District shall be connected by eco-corridors.

**D. WATERSHED PROTECTION FEES.** A means of providing funding for ongoing management of these resources is through an impact fee paid by developers and property owners as land is developed within the approved Watershed Based Protection Plan boundaries. Through annexation agreements and planned developments approved by the Village, a watershed protection fee pursuant to Appendix B of this Code may be required to be payed and shall be payable to the Village.

**Section 21.14**  
**NONCONFORMING BUILDINGS AND USES**

**A. CONTINUANCE OF USE.**

1. Any lawfully established use/building, at the effective date of this Chapter or of amendments hereto, that does not conform to the use regulations for the district in which it is located shall be deemed to be a legal nonconforming use/building and may be continued, except as otherwise provided herein.
2. Any legal nonconforming building or structure may be continued in use provided there is no physical change other than necessary maintenance and repair except as otherwise permitted herein.
3. Any building for which a permit has been lawfully granted prior to the effective date of this Chapter, or of amendments hereto may be completed in accordance with the approved plans, provided construction is started within six months and diligently carried out to completion. Such building shall thereafter be deemed a lawfully established building.

**B. DISCONTINUANCE OF USE/BUILDING.**

1. Whenever any part of a building, structure, or land occupied by a nonconforming use is changed or replaced by a use conforming to the provisions of this Chapter, such premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.
2. Whenever a nonconforming use of a building or structure, or part thereof, has been discontinued for a period of six consecutive months, if the building was originally designed and constructed for a residential use, or for a continuous period of 12 months if the building was originally designed and constructed for a non-residential use, or whenever it is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district.
3. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of six months shall constitute abandonment.
4. A nonconforming use/building not authorized by the provisions of this Chapter in effect at the time this Chapter becomes effective shall be discontinued and not re-established, except when the provisions of this Chapter find the use/building to be conforming to the district in which it is then located.

**C. CHANGE OF USE/BUILDING.** Any part of a building, structure, or land occupied by a nonconforming use that is changed or replaced by a use conforming to the provisions of this Chapter, shall not thereafter be used or occupied by a nonconforming use.

**D. REPAIRS AND ALTERATIONS.**

1. Normal maintenance of a building or structure containing a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations that do not extend or intensify the nonconforming use/building.
2. No structural alterations shall be made in a building or other structure containing a nonconforming use except in the following situations:
  - a. When the alteration is required by law;
  - b. When the alteration will eliminate the nonconforming use; or
  - c. When a building containing residential nonconforming uses may be altered in any way to improve livability, provided no structural alteration shall be made that would increase the number of dwelling units or the bulk of the building.

**E. DAMAGE AND DESTRUCTION.** If a nonconforming use/building is damaged or destroyed by any means to the extent of more than 50 percent of its assessed value (for property tax purposes) at the time, the building or other structure can be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district. In the event the damage or destruction is less than 50 percent of its assessed value, based upon prevailing costs, the building may then be restored to its original condition and the occupancy or use of such building may be continued that existed at the time of such partial damage or destruction. The Building Commissioner shall determine the extent of the damage.

In either event, restoration or repair of the building or other structure must be started within a period of one year and diligently prosecuted to completion.

**F. ADDITIONS AND ENLARGEMENTS.**

1. A nonconforming use/building may be enlarged or extended only if the entire addition or enlargement conforms to all the regulations of the district in which it is located.
2. No building partially occupied by a nonconforming use shall be altered in such a way it permits the enlargement or expansion of the space occupied by the nonconforming use.
3. No nonconforming building in any residential district shall be altered to increase the number of dwelling units therein.
4. No nonconforming use may be enlarged or extended in such a way to occupy any land beyond the boundaries of the zoning lot or property line as it existed at the effective date of this Chapter or to displace any conforming use in the same building or on the same parcel.

**Section 21.15**  
**ACCESSORY BUILDINGS AND USES**

**A. ACCESSORY BUILDINGS AND USES.**

1. Where an accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Chapter applicable to the main building.
2. When any part of this accessory building is in a side yard it may not be located nearer to any interior lot line than that permitted for the main building. However, when an accessory building is located in the rear yard, it may not be located within 5 feet of any lot line.
3. No accessory buildings or trees shall be placed on drainage or utility easements or right-of-way, but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted. The Village has the right, but not the obligation, to at any time, abate any obstructions placed on or over the easement area. Any costs incurred by the Village or its agents and subcontractors to abate the obstructions shall be paid for by the property owner. If the costs are not paid, a lien shall be placed on the property.
4. An accessory building or use shall not be erected prior to the establishment or construction of the main building to which it is accessory.
5. No accessory building shall be located on a reverse corner lot beyond the front yard required on the adjacent lot to the rear, nor be located nearer than 5 feet to the side lot line of the adjacent building.
6. Building permits are required for most accessory structures.

**B. BULK REQUIREMENTS.**

1. Accessory structures shall be a minimum of 5 feet from any property line.
2. No accessory structures shall be located in the side yard or front yard unless otherwise noted herein.
3. Accessory structures shall be located at least 10 feet away from the principal structure.
4. Only one of each type of accessory structure shall be allowed. Types of accessory structures include swimming pools, water gardens, gazebos, sheds, and detached garages as contained herein.

**C. SATELLITE DISH ANTENNAS.**

1. **Satellite Dish Antennas.** The purpose of this Section is to regulate satellite dish antennas (dish for the purpose of this Section) as accessory structures, as defined in Section 21.3 herein.
2. **Location.** If installed as a freestanding structure, dishes shall only be permitted in rear yards and shall be mounted directly upon the ground. Miniature dishes, less than 25 inches in diameter, shall be located no closer than 5 feet from any property line measured from the center of the foundation of the antenna support pole. Regular dishes shall be permitted only in rear yards containing 900 square feet or more and shall be located no closer than 10 feet from any property line measured from the center of the foundation of the antenna support pole.
3. **Height.** If installed as a freestanding structure, the maximum height of a dish shall not exceed 10 feet from ground level.
4. **Mounting.** A miniature dish may be installed on the roof or the side or rear walls of a dwelling unit provided that dishes on walls shall be installed so that the bottom of the dish is no lower than 25 inches below an eave or the peak of the roof, and provided that dishes on roofs shall be installed so that the top of the dish is no higher than 25 inches above the peak of the roof. Placement of a miniature dish shall be on a rear wall unless signal reception demands warrant side wall installation.

Dish or its support structure shall not be erected closer to any street than the wall of the building to which it is attached that is nearest to such street. Dishes shall not be attached to or mounted upon chimneys. Dishes shall not be mounted, installed or otherwise placed on towers, similar forms of structural supports, or other accessory structures.

A regular dish not exceeding a diameter of 10 feet may be installed on the roof of a business or industrial establishment, provided that it is set back at least 3 feet from any edge of the roof and is mounted in such a way that it does not exceed 11 feet in height as measured from the roof line. Screening shall be employed around the dish similar to screening for HVAC equipment.

5. **Appearance.** No advertising or logos may be painted, decaled or externally affixed to any dish, although a logo that is not of direct contrast color to the color of the dish that is stamped or etched into the face of the dish by the manufacturer is permitted. No dish may be illuminated. All dishes must be neutral in color and of one solid shade.
6. **Construction Specifications.** Before constructing, erecting, mounting or installing a regular dish, a building permit is required. The building permit application shall identify the manufacturer's specifications for the antenna and all supports and engineering details of the proposed installation to show that the combination will meet the Village building codes. In particular, all dishes must be designed to withstand a 60-miles-per-hour wind without the support of guy wires. All freestanding dishes must be erected in accordance with Village building codes, and all electric and/or transmission cable connecting the antenna to the



principal structure shall be underground. All dishes shall be appropriately grounded.

7. **Screening.** All freestanding regular dishes shall be effectively screened by a 6-foot fence or dense evergreen-type shrubbery or screening material to a minimum height of 6 feet above ground level from any adjoining lot or street;
8. **Quantity.** A maximum of one large dish or two miniature dishes shall be permitted on each residential lot. A maximum of one large dish or three miniature dishes shall be permitted on each non-residential lot. Dishes shall not be permitted on undeveloped lots.

#### **D. FENCES.**

1. **Fence Standards.** For purposes of this Chapter, all fences constructed in the side or rear yard shall comply with the following standards:
  - a. Fences shall be allowed in rear and side yards except that decorative corner fences shall be allowed in front yards as provided in this Section.
  - b. On corner lots, the yard opposite the narrowest frontage adjacent to the street shall be considered the back yard.
  - c. Decorative corner fences that are not solid/opaque shall be allowed in front yards if such fences are not more than 30 inches high and extend not more than 10 feet along the lot line or driveway line in either direction from the corner of the lot or the corner formed by the lot line and the driveway.
  - d. No solid fence shall be allowed that obstructs the free flow of light and air to adjacent properties.
  - e. No fence shall be allowed in excess of 6 feet in height except that privacy fences around swimming pools, patios and decks may be 7 feet in height. Privacy fences shall be allowed in back and side yards only. When a privacy fence is installed around a patio or deck, it shall be immediately adjacent to the dwelling unit.
  - f. No fence, nor any other obstruction including trees, bushes, and shrubs, shall be planted or constructed that obstructs sight or vision of passing motorists or in any way causes a dangerous or hazardous traffic condition.
  - g. Fences may be permitted in the drainage easement, utility easement or right-of-way providing the property owner signs a waiver of property damage claim agreement approved by the Manager or designee. The Village has the right, but not the obligation to abate any obstructions placed on or over the easement area. Any costs incurred by the Village or its agents, and subcontractors, to abate the obstructions shall be paid for by the property owner. If the costs are not paid, a lien shall be placed on the property.

- h. Unless otherwise determined by the Public Works Department, any fence located in a drainage easement shall have 4 inches of clearance from the ground to allow the free flow of stormwater.
- i. In order to allow a property enclosed by a fence to be accessible to fire, police, and other emergency response personnel, or the Public Works Department, a gate shall be provided along all fence lines adjacent to public streets. Said gates shall be a minimum of 36 inches in width, must not be locked but may have a latch. All gates shall be mounted in such a manner that the gate swings back over private property and not over the public right-of-way.
- j. The following fences are prohibited:
  - I. Barbed wire;
  - II. Electrified fences;
  - III. Chain link fences with slats;
  - IV. Snow fences;
  - V. Solid fences: A “stockade” type fence or a “butted board” shall be considered a solid fence unless the surface contains a minimum of  $\frac{3}{4}$  inches of open space every lineal  $6\frac{3}{4}$  inches, measured either vertically or horizontally along the fence surface. “Alternating board” and “basket weave” fences shall not be considered solid fences;
  - VI. Chicken wire fences;
  - VII. Masonry fences or walls; or
  - VIII. Plastic weave construction or landscape fences (unless required during permitted construction).
- k. Any fence that has an unfinished side shall be erected so the unfinished side and supporting members face inward.
- l. All fences shall require the application for and issuance of a building permit, and shall comply with the Village building codes.
- m. Whenever a business or industrial use abuts a residential district or a residential use, the owner of said business or industrial property shall be required to erect and maintain a board on board fence of not less than 6 feet nor more than 7 feet in height to screen said business or industrial use from the residential district or residential use. A landscaped berm that forms a solid vegetated buffer may be used in lieu of a fence, if approved by the Village Board as part of a Planned Development.

- n. Fence requirements for swimming pools are found in Chapter 23, Building Codes, of this Code.
2. **Front Yard Fences Old Town District.** Fences are permitted in front yards within Old Town (Downtown), subject to the following:
- a. **Height.** Height shall be measured from the average grade of the front yard. Fence posts shall not exceed 48 inches in height. In order to allow the incorporation of decorative features, caps or finials measuring up to 6 inches in height may be added to the fence posts. Fence materials between the posts shall be not less than 36 inches in height nor more than 42 inches in height.
  - b. **Degree of Openness.** Fences shall be at least 40 percent permeable by light and air when viewed perpendicular to the plane of the fence, and as determined by calculating the surface area of the slats, posts, bars, or other solid materials in relation to the effective surface area of the apertures. Any plantings located along the fence shall be maintained to prevent the plant materials from interfering with the specified degree of openness.
  - c. **Setback.** Fences shall be no closer to the street than the property line or 24 inches inside of the inner edge of the public sidewalk closest to the building, whichever provides the greater setback from the public right-of-way.
  - d. **Materials and Style.** Fences shall be constructed of wrought (forged) iron, cast iron, split rail, wrought or cast aluminum or PVC painted to resemble iron (replica aluminum) or wood, or sawn wood posts or wood pickets. Support posts may be made of the same material or of stone or masonry, and said posts shall not be greater than 24 inches in width. Posts greater than 12 inches in width shall be spaced at least 8 feet apart. In keeping with the historic flavor of the Old Town District, all iron or replica aluminum fences shall be ornamental in style, employing the use of such motifs as scrollwork, finials, or other decorative features. Plain, contemporary styles shall be prohibited. Wood fences shall be decorative in style and shall be painted and maintained. Chain link, wire, board-on-board, basket weave, stockade, or similar types of fence styles are not permitted in front yards. Fence colors shall be related naturally to their styles and be compatible with the architectural design of the building on the lot where the fence is to be erected. For safety reasons, no fence should have unshielded sharp points or finials.
  - e. **Construction.** Fences shall be erected so that all horizontal or vertical supporting members shall face inward.
3. **Corner Lot Side Yard Fences.** Exterior side yard fences shall be permitted in the R-1E, R-1, R-1A, R-2, R-3, and O-T zoning districts, subject to the following:

- a. **Height.** Exterior side yard fences shall not exceed 42 inches in height. Height shall be measured from the average grade of the exterior side yard.
  - b. **Degree of Openness.** Exterior side yard fences shall be at least 40 percent permeable by light and air when viewed perpendicular to the plane of the fence, and as determined by calculating the surface area of the slats, posts, bars, or other solid materials in relation to the effective surface area of the apertures.
  - c. **Setback.** Exterior side yard fences shall be set back a minimum of 5 feet from the property line or 5 feet from the inner edge of the public sidewalk closest to the building whichever provides the greater setback from the public right-of-way.
  - d. **Materials and Style.** Exterior side yard fences shall be constructed of wrought (forged) iron, cast iron, split rail, wrought or cast aluminum or PVC painted to resemble iron (replica aluminum) or wood, or sawn wood posts or wood pickets or coated chain link. Support posts may be made of the same material or of stone or masonry. Board-on-board, basket weave, stockade, or similar types of fence styles shall not be permitted in exterior side yards. Fence colors shall be related naturally to their styles and be compatible with the architectural design of the building on the lot where the fence is to be erected.
4. **Variations.** See Section 21.17 herein.

#### **E. RETAINING WALLS.**

1. No retaining walls shall be constructed in Village easements or right-of-ways.
2. Mortar/concrete block is the recommended material for retaining walls. Retaining walls shall not be constructed of wood, timbers, or railroad ties.
3. Retaining walls less than 26 inches above the lower grade level shall be buried at least 6 inches below grade and do not require a site development permit.
4. Retaining walls 26 inches or more above the lower grade level shall be required to obtain a site development permit. Walls installed during mass grading will be reviewed with the grading permit. When possible, all retaining walls shall be installed at the time of mass grading. Walls installed after mass grading require a separate Site Development permit.
5. Plans for retaining walls 26 inches or more in height shall be stamped by a structural engineer to verify that the type of wall is appropriate for the specific location and the materials to be used are sufficient for the intended use.
6. Slopes of 2 to 1 or steeper shall warrant the use of retaining walls.
7. For safety purposes retaining walls over 4 feet above the lower grade level shall have a fence on top.

8. Retaining walls constructed more than 10 feet above the lower grade level shall be terraced to include a landscaped area to break up the wall.

**F. SWIMMING POOLS AND WATER GARDENS.**

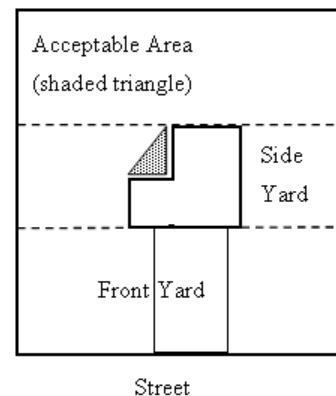
1. No portion of a swimming pool or water garden or its equipment, including but not limited to a deck, patio, pump, filter or walkway, shall be located less than 5 feet from property line.
2. Specific swimming pool barrier requirements are found in Chapter 23, Building Codes, of this Code.

**G. GAZEBO.**

1. If attached to the principal structure, either directly or via a deck, the gazebo shall conform to the setback requirements regulating the principal structure.
2. Setbacks for freestanding gazebos shall conform to those regulating accessory structures as defined in this Section.
3. The maximum height of a gazebo shall be 16 feet.

**H. SHEDS.**

1. The maximum size of a shed shall be 120 square feet (10' X 12').
2. Only one shed per lot shall be permitted.
3. The maximum height of a shed shall be 10 feet.
4. Sheds located in side yards shall meet the principal structure setbacks.
5. Movable, plastic storage sheds or boxes, less than 100 cubic feet, shall be located in rear yards or side yard if it does not project past the plane of the house and is not visible from the right-of-way. No building permit is required to install. No more than three per lot shall be permitted.



**I. DETACHED GARAGES.**

1. Detached garages shall not exceed the size of the principal structure in square feet or be greater than 725 square feet, whichever is more restrictive.
2. The height of a detached garage shall not exceed the height of the principal structure or be greater than 16 feet in height, whichever is more restrictive.

**J. CHILDREN'S PLAYHOUSES.**

1. The maximum height of a children's playhouse shall be 16 feet.
2. The maximum size of a children's playhouse shall be 120 square feet (10' X 12').
3. Children's playhouses are only permitted in the rear yard.
4. A building permit is not required for a playhouse; however, it shall meet the applicable provisions of Chapter 23, Building Codes, of this Code.

**K. RECREATIONAL VEHICLES.** In all residential districts where parking facilities are incorporated, off-street storage of recreational vehicles and equipment shall be provided in accordance with the following requirements. (Refer to Chapter 23, Building Codes, of this Code, for specific information.)

1. Recreational vehicles shall be parked in a completely enclosed building in a lawful manner or on a hard surface of not less than 2 inches of asphalt or 4 inches of concrete.
2. Not more than two recreational vehicles shall be visible on a zoning lot.
3. Recreational vehicles shall be accessible to the host vehicle without either being maneuvered over grass, lawn, unpaved surfaces, or curbs.
4. Recreational vehicles may only be set up for maintenance purposes for a period not to exceed 48 hours.
5. Recreational vehicles shall be properly licensed and in good repair.
6. Recreational vehicles shall meet the height and weight requirements as set forth in Chapter 625 of the Illinois Compiled Statutes.
7. No part of any recreational vehicle shall be allowed to encroach into the right-of-way or public sidewalk.
8. Parking of recreational vehicle on public property is prohibited.

**L. PORTABLE STORAGE CONTAINERS.**

1. A building permit is required for portable storage containers on site for more than 14 days. The maximum permitted time is 90 days.
2. Portable storage containers are permitted only one time each calendar year.
3. Portable storage containers shall be placed on a paved surface.
4. Placement of portable storage containers on public property or encroaching on a public sidewalk is prohibited.

**M. TEMPORARY/SEASONAL VESTIBULES.**

1. A building permit is required.
2. The vestibule shall be a solid color to match the building.
3. No signage shall be permitted on the vestibule.
4. The vestibule shall only be allowed between November 1 and April 15.
5. Temporary/seasonal vestibules are not permitted on doorways with existing vestibules.
6. Vestibule shall comply with Chapter 23, Building Codes, of the Code.

**Section 21.16**  
**OFF-STREET PARKING AND LOADING**

- A. PURPOSE.** The purpose of this Section is to alleviate or prevent congestion of the public streets and to promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use of the property.
- B. GENERAL PROVISIONS, PARKING, AND LOADING.**
1. **Procedure.** An application for a building permit for a new or enlarged building, structure, or use shall include a plot plan, drawn to scale, and fully dimensioned showing any parking or loading facilities to be provided in compliance with the requirements of this Chapter.
  2. Chapter 26, Site Plan and Development Review Requirements, of this Code shall be referred to for more specific parking requirements.
  3. **Extent of Control.** The off-street parking and loading requirements of this Chapter shall apply as follows:
    - a. All buildings and structures erected and land uses initiated after the Effective Date of this Chapter shall provide accessory off-street parking or loading facilities as required hereinafter for the use thereof, except that a building or structure for which a building permit has been issued prior to the Effective Date shall not be required to furnish additional parking or loading facilities to meet the requirements of this Section if construction is begun thereon within six months of the Effective Date and diligently prosecuted to completion.
    - b. When a building or structure erected prior to or after the Effective Date shall undergo any decrease in number of dwelling units, gross floor area, seating capacity, number of employees, or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said decrease would result in a requirement for fewer total parking or loading spaces through application of the provisions of this Chapter, and there is no apparent existing parking problem as determined by the Zoning Administrator, parking and loading facilities may be reduced accordingly, provided that existing parking or loading facilities shall be decreased only when the facilities remaining would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Chapter to the entire building or structure as modified.
    - c. When a building or structure shall undergo any increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement specified hereinafter for required parking or loading facilities, and further, when said increase would result in a requirement for additional total parking or loading spaces through application of the provisions of this Chapter, parking and loading facilities may be increased



accordingly, provided that existing parking or loading facilities shall be increased so that the facilities would at least equal or exceed the parking or loading requirements resulting from application of the provisions of this Chapter to the entire building or structure as modified.

4. **Existing Parking and Loading Spaces.** Accessory off-street parking and loading spaces in existence on the Effective Date may not be reduced in number unless already exceeding the requirements of this Section for equivalent new construction in which event said spaces shall not be reduced below the number required herein for such equivalent new construction.
5. **Permissive Parking and Loading Spaces.** Nothing in this Section shall prevent the establishment of off-street automobile parking or loading facilities to serve any existing use of land or buildings, subject to full compliance with the provisions of this Section, unless on a lot adjacent thereto without authorization by the Village Board.
6. **Damage or Destruction.** Any building, structure, or use that is in existence and is a conforming use on the Effective Date and that subsequently shall be damaged or destroyed, less than 50 percent as determined by the Building Commissioner, by fire, collapse, explosion, or other cause may be reconstructed, re-established, or repaired with or without off-street parking or loading facilities, except that parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, it shall not be necessary to restore or maintain parking or loading facilities in excess of those required by this Chapter for equivalent new construction.
7. **Tables for Required Parking and Loading.** Requirements governing the number and location of off-street parking and off-street loading facilities in relation to the use of property are established herein, or refer to Chapter 26, Site Plan and Development Review Requirements, of this Code.

#### C. **ADDITIONAL REGULATIONS, PARKING.**

1. **Use of Parking Facilities.** Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this Section shall be used solely for the parking of vehicles owned by occupants of the dwelling structures to which such facilities are accessory or by guests of said occupants.

Under no circumstances shall required parking facilities accessory to residential structures be used for the parking or storage of commercial vehicles higher than class "B" license plates and shall not exceed a gross vehicle weight of 8,000 pounds, or for the parking of vehicles belonging to the employees, owners, tenants, visitors, or customers of business or manufacturing establishments.

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

be less than the sum of the separate requirements for each use. If joint parking facilities are provided for uses with different peak hours, than the parking requirements shall be decreased by 20 percent, or as approved by the Village Board.

3. **Control of Off-Site Facilities.** When required accessory off-street parking facilities are provided elsewhere than on the lot on which the principal use served is located, they shall be in the same possession, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants filed of record in the office of the Recorder of Deeds of the appropriate county requiring the owner and its heirs and assigns to maintain the required number of parking spaces during the existence of said principal use.
4. **Permitted Districts for Accessory Parking.** Accessory parking facilities provided elsewhere than on the same zoning lot with the principal use served may be located in any zoning district except as follows:
  - a. No parking facilities accessory to an apartment use shall be located in the R-1 or R-2 Districts;
  - b. No parking facilities accessory to any business or manufacturing use shall be located in a Residential District, except when authorized by a Special Use Permit approved by the Village Board as prescribed hereinafter.
5. **Nonresidential Parking in Residential Districts.** Accessory off-street parking facilities serving nonresidential uses of property may be permitted in the R-3 and R-4 Districts when authorized by a special use permit approved by the Village Board, subject to the following requirements in addition to all other relevant requirements of this Section:
  - a. The parking lot shall be accessory to and for use in connection with one or more nonresidential establishments located in adjoining districts or in connection with one or more existing professional or institutional office buildings or institutions;
  - b. Said parking lot shall be used solely for the parking of passenger automobiles;
  - c. No commercial storage, repair work, or service of any kind shall be conducted on said parking lot;
  - d. No sign of any kind, other than signs designating entrances, exits, and conditions of use, shall be maintained on said parking lot;
  - e. The parking lot may be open from 7:00 A.M. to 9:00 P.M. and shall be closed at all other times, provided, however, that when supervised by one or more full-time attendants, the parking lot may be kept open until 12:00 midnight;

- f. Each entrance to and exit from said parking lot shall be at least 20 feet distant from any adjacent property located in any residential district except where ingress/egress to the parking lot is provided from a public way or public alley separating the residential areas from the proposed parking lot;
- g. In addition to the foregoing requirements, such parking lots shall conform to any further requirements and conditions as may be prescribed by the Village Board for the protection of properties adjacent to and in the vicinity of the proposed parking lot.

6. **Design and Maintenance.**

- a. **Parking Space, Description.** A required off-street parking space shall be 9 feet wide by 18 feet long, exclusive of access drives or aisles, ramps, columns, landscaped areas, and work areas, accessible from streets or alleys or from private driveways, or aisles leading to streets or alleys, and to be used for the storage or parking of passenger automobiles or commercial vehicles under 1½-ton capacity.

<b>Requirements for Aisle Widths</b>	
Parking Angle (Degrees)	Aisle Width (Feet)
90	24
75	22
60	18
45	13.5

- b. **Measure of Space.** When determination of the number of required off-street parking spaces results in a requirement of a fractional space, any fraction shall be rounded up to a complete parking space.
- c. **Access.** Parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as will least interfere with the movement of traffic. No parking lot driveway or curb cut in any district shall exceed 35 feet in width.
- d. **Signs.** No signs shall be displayed in any parking area within any residential district except such as may be necessary for the orderly use of the parking facilities.
- e. **Surfacing.** All open off-street parking areas shall be improved with an asphalt or concrete surface in accordance with Village ordinances.
- f. **Wheel Stops.** No wheel stop shall be permitted in parking lots unless approved by the Village Board as part of a planned development.

- g. **Screening and Landscaping.** Parking lot screening and landscaping shall comply with Chapter 30, Landscaping Code, of this Code.
- h. **Lighting.** Any lighting used to illuminate an off-street parking area shall conform to lighting standards in Chapter 26, Site Plan and Development Review Requirements, of this Code.
- i. **Special Use Public Parking Areas.** Any vehicle parking area developed for transient trade and not accessory to specific main uses or groups of uses for which parking is required by this Chapter, shall be treated as a special use permit as allowed in accordance with the provisions of Section 21.12 herein by the Village Board.

**D. ADDITIONAL REGULATIONS, LOADING.**

- 1. **Loading Berth, Description.** An off-street loading berth shall be a hard-surfaced area of land, open or enclosed, other than a street or a public way, used principally for the standing, loading, or unloading of motor trucks, tractors, and trailers to avoid undue interference with the public use of streets and alleys. A required loading space shall be not less than 10 feet in width, 45 feet in length and 14 feet in height, exclusive of access aisles and maneuvering space, except as otherwise specifically dimensioned hereafter.
- 2. **Location.** No permitted or required loading berth shall be closer than 50 feet to any property in a residential district unless completely enclosed by building walls. A loading berth may be located closer than 50 feet to a residential district if fencing or a berm with landscaping is approved by the Village Board as part of a planned development. No permitted or required loading berth shall be located within 25 feet of the nearest point of intersection of any two streets.
- 3. **Measurement of Berth.** When the determination of the number of required off-street loading berths results in a requirement of a fractional berth, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall be interpreted as one loading berth.
- 4. **Surfacing.** All open off-street loading berths shall be improved with asphalt or concrete in accordance with Village ordinances.

**E. LOCATION OF PARKING AREAS.**

- 1. **Extent of Control.** Off-street vehicle parking facilities shall be located as hereinafter specified; where a distance is specified, such distance shall be walking distance measured from the nearest point of the parking area to the nearest entrance of the building that said parking area is required to serve.
- 2. For one- and two-family dwellings on the same lot with the buildings they are required to serve.
- 3. For three- and four-family dwellings not over two stories in height, on the same lot or parcel of land as the building they are required to serve. For the purpose of

this requirement, a group of such uses constructed and maintained under single ownership or management shall be assumed to be on a single lot or parcel of land.

4. For apartment houses containing four or more dwelling units on the same lot or parcel of land as the building they are required to serve, or on a separate lot or parcel of land not more than 300 feet from the nearest entrance to the main building being served, provided the lot or parcel of land selected for the parking facilities is located in a R-5 District or a less restricted district.
5. For uses other than those specified above, off-street parking facilities shall be provided on the same lot or parcel or land as the main building being served, or on a separate lot or parcel of land not more than 1,000 feet from the entrance of the main building, measured from the nearest point of the parking area, provided the separate lot or parcel of land intended for the parking facilities is located in the same district as the principal permitted use or in a less restricted district.

**F. SCHEDULE OF MINIMUM PARKING REQUIREMENTS.**

1. For single-family dwellings, two parking spaces.
2. For two- or more family dwellings, two parking spaces for each family dwelling unit.
3. For all other uses see Chapter 26, Site Plan and Development Review Requirements, of this Code.

**Section 21.17**  
**ADMINISTRATION**

- A. ZONING ADMINISTRATOR.** The Zoning Administrator shall be responsible for the interpretation of the Zoning Ordinance. The Manager shall designate the Zoning Administrator.
- B. ZONING ENFORCING OFFICER.** The Building Commissioner is the Zoning Enforcing Officer and shall be responsible for the enforcement of the requirements in this Chapter.
- C. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY.**

- 1. **Building Permit.** No building or structure shall hereafter be erected or structurally altered until a building permit has been issued by the Building Commissioner stating that the building or structure and use of land comply with the regulations of this Chapter and all building, health laws and ordinances of the Village.

All applications for building permits shall be submitted in accordance with Chapter 23, Building Codes, of this Code. A careful record of such applications and plats shall be kept in the office of the Building Commissioner.

- 2. **Certificate of Occupancy.** No building or structure hereafter erected or structurally altered shall be occupied and used until the Building Commissioner has issued a Certificate of Occupancy. The Certificate of Occupancy shall be issued only after the Building Commissioner makes a finding that the building or structure has been erected or structurally altered in conformance with the provisions of this Chapter and other health and building laws and in accordance with a building permit.

Application for a Certificate of Occupancy shall be coincident with the application for a building permit and shall be issued within 10 days after the erection and alterations of such building have been satisfactorily completed. A record of all certificates shall be kept on file in the office of the Building Commissioner.

- D. PLANNING AND ZONING COMMISSION.** Refer to Chapter 18 of this Code.
- E. VARIATIONS.** Petitions for variations from this Chapter shall come before the Planning and Zoning Commission before being considered by the Village Board.

- 1. **Standards.** When evidence in a specific case shows conclusively that literal enforcement of any provision of this Chapter would result in a practical difficulty or particular hardship because of unusual surroundings or condition of the property involved, or by reason of exceptional narrowness, shallowness, or shape of the zoning lot, or because of unique topography, underground conditions, or other unusual circumstances, the Planning and Zoning Commission may determine and vary the application of the provision and the Village Board may grant, by ordinance, a variation to permit relief from any provision relating to the construction or alteration of buildings or structures.

The property owner's desire to build an accessory structure in a location only possible via a variation is not grounds for a variation if the improvement may be made elsewhere on the property without a variation. A reasonable alternative may include modifying the plans of the proposed structure, such as making it smaller than desired.

Before recommending any variation, the Planning and Zoning Commission shall first determine and record its finding that the evidence justifies conclusions that the proposed variation (a) will not impair an adequate supply of light and air to adjacent property, (b) will not unreasonably diminish the values of adjacent property, (c) will not unreasonably increase congestion in the public streets or otherwise endanger public safety, and (d) is in harmony with the general purpose and intent of this Chapter. Where the evidence is not found to justify such conclusions, that fact shall be reported to the Village Board with a recommendation that the variation be denied.

2. **Conditions.** The Planning and Zoning Commission may recommend, and the Village Board in granting any variation, may impose such conditions or restrictions that appear necessary to minimize possible detrimental effects of such variation upon other properties in the neighborhood. Conditions regarding time limitations, and limited to current property owner, may be placed on the variation, provided the conditions are related to the hardship.

**Section 21.18**  
**PUBLIC HEARINGS**

- A. PUBLIC HEARING NOTICE.** Within a reasonable time following receipt of all papers and documents relating to an appeal, an application for special use or, a planned development, or a petition for an amendment of the regulations or zoning district boundaries established by this Chapter, there shall be published in the official newspaper (*Northwest Herald*) a notice of the time and place of the public hearing thereon. Such notice shall be published not less than 15 days nor more than 30 days before the hearing date and shall contain (i) the common street address or addresses, (ii) the property index number (“PIN”) or numbers of all the parcels of the real property contained in the affected area, (iii) the approximate size of the property in acres, or square feet if under an acre, and (iv) a brief description of the nature of the matter to be heard.

Notice shall also be mailed to the individuals who last paid taxes on the property adjacent to the subject property of the petition (exclusive of rights-of-ways). Said notices shall be mailed, by certified mail (with return receipt), by the petitioner/applicant, not less than 15 days or more than 30 days before the hearing date. All return receipts shall be submitted to the Community Development Department prior to the public hearing.

In addition to the other notices provided for herein, the petitioner/applicant shall post notice of said hearing by the erection of a sign, to be provided by the Village, on the subject property for a period of not less than 15 continuous days immediately preceding the date of the hearing and not more than 30 days before the date of the hearing. The required sign shall be posted in a conspicuous place allowing unobstructed public viewing.

- B. ACTION BY VILLAGE BOARD.** Upon receipt of a recommendation(s) from the Planning and Zoning Commission, the Village Board may adopt with or without modification, reject, or deny the report and recommendations of the Planning and Zoning Commission, or may refer any matter back to the Planning and Zoning Commission for further consideration. Any proposed variation that fails to receive the approval of the Planning and Zoning Commission, shall require a favorable two-thirds vote of all trustees on the Village Board. Approval by the Planning and Zoning Commission is defined as four affirmative votes.

Approval of proposed amendments, planned developments, special uses, and variations shall be by an ordinance.

- C. TIME LIMIT.** No order for a variance permitting the erection or alteration of a building or structure shall be valid for a period longer than six months, unless such use is established within such period, provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit is obtained within such period and the erection or alteration is started and proceeds in accordance with such permit.



**Section 21.19**  
**AMENDMENTS**

- A. INITIATION.** The regulations imposed and the zoning districts hereby created may be amended from time to time by ordinance, but no such amendments shall be made without a public hearing before the Planning and Zoning Commission. Amendments may be proposed by the Village Board, Planning and Zoning Commission or by petition of any owner of property in the Village, filed with the Community Development Department and accompanied by the required filing fee.
- B. PROTESTS.** In the event that a written protest against any amendment is filed with the Village Clerk and is signed and acknowledged by the owners of 20 percent of the frontage immediately adjoining or across a street or alley there-from, or by the owners of 20 percent of the frontage proposed to be altered, or by the owners of 20 percent of the frontage directly opposite the frontage proposed to be altered, such amendment shall not be passed except by a favorable two-thirds vote of all trustees on the Village Board then holding office. In such cases, a copy of the written protest shall be served by the protestor or protestors on the petitioner for the proposed amendments and a copy upon the petitioner's attorney, if any, by certified mail at the address of such petitioner and attorney shown on the petition for the proposed amendment.
- C. RESUBMISSION.** If the Village Board rejects a proposed text or map amendment, it or one substantially similar may not be resubmitted within 12 months of the date of rejection.
- D. PLANNED DEVELOPMENT PERMIT.** Any person entitled to file an application for a zoning amendment may contemporaneously file an application for a planned development or special use permit. A single notice and hearing may be used for such joint application. The Planning and Zoning Commission shall make specific findings of fact with respect to each application and shall make its recommendations both on the application for the amendment and on the application for the planned development or special use permit. The Village Board shall make separate decisions on both applications, with the decision on the application for the planned development being governed by the provisions of Section 21.11 herein. If, during the course of a hearing on an application for an amendment reclassifying specific property to a different district, the applicant's representations or evidence tend to show that the proposed development would constitute a planned development as defined in Section 21.11 herein, the Planning and Zoning Commission may, on its own motion, treat the application as a joint application pursuant to this Section, for both the amendment requested and for the grant of a planned development permit. Such joint application shall be handled according to the procedures specified herein. In such a case, the previously published notice of the hearing on the application for amendment shall be deemed to have constituted notice that an application for a planned development was requested, provided, however, that no application which grants any use exceptions pursuant to Section 21.11 herein shall be granted unless the previously published notice specifically indicated that such planned development permit might be granted, or unless the Planning and Zoning Commission orders an additional notice and hearing pursuant to Section 21.11. The provisions of Section 21.11 shall be printed on every application for an amendment.

**Section 21.20**  
**INTERPRETATION, PURPOSE, AND CONFLICT**

In interpreting and applying the provisions of this Chapter, the provisions shall be held to be the minimum requirements for the promotion of the safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this Chapter to interfere with, abrogate, annul, or repeal any ordinances, rules, or regulations previously adopted, and not in conflict with any of the provisions of this Chapter or that shall be adopted pursuant to law relating to the use of buildings or premises, nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, except that where this Chapter imposes a greater restriction upon the use of land, buildings, or premises, or upon the height of buildings, or requires larger open spaces than are imposed or required by such other ordinances, or such other easements, covenants, or agreements, the provisions of this Chapter shall control.

**Section 21.21**  
**FEES**

Fees pertaining to petitions for zoning amendments, special use permits, certificate of compliance, variation and for appeals to the Commission shall be established by action of the Village Board from time to time. Such fees shall be paid to the Village Clerk. A receipt shall be issued for all fees received. The petitioner/applicant shall, in addition to such fees, be responsible for the cost of any required publications and such as fees charged by the Village hired professionals, such as land planners or consultants, attorneys and engineers, and court reporter, if required, regarding any petition for zoning amendments, special use permits, certificates of compliance, variations, annexation, and planned developments. This Section shall not be applicable for Village initiated petitions. Refer to Appendix B of this Code for a specific list of fees.

**Section 21.22**  
**VIOLATIONS; PENALTY**

Unless otherwise stated in this Chapter, any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Chapter shall be fined pursuant to Appendix B of the Code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

For any violation of the conditions of a Planned Development, a daily fine, found in Appendix B of the Code, shall be charged per violation until the violation is corrected. The Village shall notify the property owner in writing of the violation and the property owner shall have one day to correct the violation before a fine is charged.

For any violation of the conditions of a Special Use Permit, a daily fine, found in Appendix B of the Code, shall be charged per violation until the violation is corrected. Each day that a violation continues shall be considered a separate offense. The Village shall notify the property owner in writing of the violation and the property owner shall have one day to correct the violation before a fine is charged.

Any person accused of violating the provisions of this Chapter may settle and compromise the claim against him or her for said violation as follows:

1. Any person who receives a notice of violation in lieu of a citation to appear in court may avoid a court appearance by showing proof, within 10 days of receipt of notice, that the violation or violations have been corrected and the fine paid.
2. Proof of the correction may be shown by appearing in person at the office of the Building Commissioner.
3. A receipt shall be issued for all money so received.

The Building Commissioner is hereby authorized to refrain from instituting a prosecution for the alleged violation for which an administrative fee has been paid and proof of correction shown.

Failure to pay the administrative fee and correct the violation within 10 days will result in a referral of the matter to the 22nd Judicial Circuit Court of McHenry County, or in the alternative, may be processed through the Village's administrative adjudication process. If the violation is referred to the Circuit Court, the violator will be subject to the procedures and increased penalties as set forth in the Village codes and ordinances.