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## CHAPTER 14 - ZONING

### Article 1 - Definitions

**Sec. 14.101 General Definitions:** For the purpose of this Chapter, certain terms and words used herein shall be interpreted or defined as follows:

Words used in the present tense include the future tense.

The singular number includes the plural.

The word “person” includes a corporation as well as an individual.

The word “building” shall include the word structure.

The word “shall” is always mandatory and not directory.

**ACCESSORY BUILDING.** An incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

**ACCESSORY LIVING QUARTERS.** An accessory building used solely as the temporary dwelling of guests of the occupants of the premises; such dwelling having no *kitchen* facilities and not rented or otherwise used as a separate *sleeping unit*.

**ACCESSORY USE.** A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to, and customarily found in connection with, such primary use.

**AGRICULTURE.** The tilling of the soil, raising of crops, farm animals, livestock, horticulture, gardening, beekeeping and aquaculture.

**ALLEY.** Any public way or thoroughfare more than 10 feet, but less than 16 feet, in width, which has been dedicated to the public for public use.

**ALTERATION.** Any change, addition or modification in construction, occupancy or use.

**AMUSEMENT CENTER.** An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

**APARTMENT.** A room or suite of rooms in a multiple or two-family dwelling, or where more than one unity is established above non-residential uses, intended or designed for use as a residence by a single family.

**APARTMENT HOUSE.** A residential building designed or used for three or more dwelling units.

**AUTOMOTIVE REPAIR, MAJOR.** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, and major engine and engine part overhaul, which is conducted within a completely enclosed building.

**AUTOMOTIVE REPAIR, MINOR.** An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, and transmission work, which is conducted within a completely enclosed building.

**AUTOMOTIVE SELF-SERVICE MOTOR FUEL DISPENSING FACILITY.** That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as a clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

**AUTOMOTIVE SERVICE MOTOR FUEL DISPENSING FACILITY.** That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Accessory activities shall be permitted to include automotive repair and maintenance, car wash service, and food sales.

**BASEMENT.** Any floor level below the first *story* in a building, except that a floor level in a building having only one floor level shall be classified as a *basement* unless such floor level qualifies as a first *story* as defined herein.

**BEAUTY SHOP.** A facility that is located in a residence, attached to a residence or detached from a residence that has a valid license from the State of Illinois to cut men and/or women's hair, is properly registered and collects all required sales tax, and has no more than one chair, station or booth available for such services.

**BOARDING HOUSE.** A dwelling containing a single *dwelling unit* and not more than 10 sleeping units, where lodging is provided with or without meals, for compensation for more than one week.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy. When a structure is divided into separate parts by unpierced walls extending from the ground, each part is deemed a separate building.

**BUILDING, MAIN.** A building in which the principal use of the site is conducted.

**BUILDING, TEMPORARY.** A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

**BUILDING CODE.** The *International Building Code* promulgated by the International Code Council, as adopted by the jurisdiction.

**BUILDING ELEVATION.** The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

**BUILDING HEIGHT.** The vertical distance above the average existing *grade* measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

**BUILDING LINE.** The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

**BUSINESS OR FINANCIAL SERVICES.** An establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.

**CANOPY.** A roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the *canopy* placed so as to extend outward from the building providing a protective shield for doors, windows and other openings.

**CANOPY (Attached).** A multisided structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light.

**CANOPY (Free-standing).** A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

**COMPREHENSIVE PLAN.** The declaration of purposes, policies and programs for the development of the jurisdiction.

**CONDOMINIUM.** A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an undivided interest in the common areas and facilities of the property.

**CONGREGATE RESIDENCE.** Any building or portion thereof that contains facilities for living, sleeping and sanitation as required by this code, and may include facilities for eating and cooking for occupancy by other than a family. A *congregate residence* shall be permitted to be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

**COPY.** Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

**COURT.** A space, open and unobstructed to the sky, located at or above *grade* level on a lot and bounded on three or more sides by walls of a building.

**COVERAGE.** That percentage of the plot or lot area covered by the building area.

**DAY CARE, FAMILY.** The keeping for part-time care and/or instruction, whether or not for compensation, of six or less children at any one time within a dwelling, not including members of the family residing on the premises.

**DAY CARE, GROUP.** An establishment for the care and/or instruction, whether or not for compensation, of seven or more persons at any one time. Child nurseries, preschools and adult care facilities are included in this definition.

**DENSITY.** The number of dwelling units that are allowed on an area of land, which area of land shall be permitted to include dedicated streets contained within the development.

**DRIVEWAY.** A private access road, the use of that is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

**DWELLING, MULTIPLE UNIT.** A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

**DWELLING, SINGLE FAMILY.** A detached *dwelling unit* with *kitchen* and sleeping facilities, designed for occupancy by one family.

**DWELLING, TWO FAMILY.** A building designed or arranged to be occupied by two families living independently, with the structure having only two dwelling units.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The *easement* shall be permitted to be for use under, on or above said lot or lots.

**FACE OF BUILDING, PRIMARY.** The wall of a building fronting on a street or right-of-way, excluding any appurtenances such as projecting fins, columns, pilasters, canopies, marquees, showcases or decorations.

**FAMILY.** One or more persons occupying a premise and living as a single housekeeping unit, whether or not related to each other by birth, adoption, or marriage, as distinguished from a group occupying a boarding house, lodging house, or hotel, as herein defined.

**FARM.** An area which is used for the growing of the usual farm products such as vegetables, fruit, trees, and grain, and their storage on the area, as well as for the raising thereon the usual farm poultry and farm animals for the use of consumption of the person or persons operating the farm. The term "farming" includes the operating of the necessary accessory uses for treating or storing the produce, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities, and providing further, that farming does not include the feeding of garbage or offal to swine or other animals.

**FARM ANIMALS.** Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. *Farm animals* are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep and goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons.

**FLOOR AREA, GROSS.** The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

**FLOOR AREA, NET.** The *gross floor area* exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

**FRONTAGE.** The width of a lot or parcel abutting a public right-of-way measured at the front property line.

**FRONTAGE (Building).** The length of an exterior building wall or structure of a single premise oriented to the public way or other properties that it faces.

**FRONTAGE (Property).** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

**GARAGE, PRIVATE.** A building or a portion of a building, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

**GRADE (Adjacent Ground Elevation).** The lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet from the building.

**GREEN SPACE.** The use of natural landscaping material including plants, grass, shrubbery and trees, which do not impede the absorption of water.

**GROUND SIGN.** A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

**GROUP CARE FACILITY.** A facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol; this does not include day care centers, *family day care* homes, foster homes, schools, hospitals, jails or prisons.

**HABITABLE SPACE (Room).** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered *habitable space*.

**HOME OCCUPATION.** The partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes.

**HOSPITAL.** An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services, primarily for inpatients, and including as related facilities, laboratories, outpatient departments, training facilities and staff offices.

**HOUSE TRAILER.** That the definition of the term “house trailer” shall be intended to mean a structure or vehicle primarily designed for living or sleeping quarters and for office purposes mounted on wheels, or primarily designed or built to be mounted on wheels, or other device upon which it might be readily transported either by its own power or by some externally applied tractive effort; provided, however, that said structure or vehicle shall be considered to be a house trailer under the provisions of this Chapter.

**HOUSEHOLD PETS.** Dogs, cats, birds, etc., for family use only (noncommercial) with cages, pens, etc.

**INDUSTRIAL PARK.** A tract of land developed according to a master site plan for the use of a family of industries and their related commercial uses, and that is of sufficient size and physical improvement to protect surrounding areas and the general community and to ensure a harmonious integration into the neighborhood.

**JURISDICTION.** As used in this code, jurisdiction the Village of Deer Creek.

**KITCHEN.** Any room or portion of a room within a building designed and intended to be used for the cooking or preparation of food.

**LANDSCAPING.** The finishing and adornment of unpaved *yard* areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers. This treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

**LEGISLATIVE BODY.** The Village Board of the Village of Deer Creek.

**LIVESTOCK.** Includes, but is not limited to, horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any other hoofed animals.

**LOT.** A single parcel of land.

**LOT, CORNER.** A lot abutting upon two (2) or more streets at their intersection.

**LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE.** A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

**LOT OF RECORD.** A lot which is a part of a subdivision, the map of which has been recorded in the recorder of deeds prior to the date of the adoption of this Chapter.

**MANSARD.** An inclined decorative roof-like projection that is attached to an exterior building façade.

**MANUFACTURING, HEAVY.** All other types of manufacturing not included in the definitions of *light manufacturing* and *medium manufacturing*.

**MANUFACTURING, LIGHT.** The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

**MANUFACTURING, MEDIUM.** The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open *yard* that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

**MORTUARY, FUNERAL HOME.** An establishment in which the dead are prepared for burial or cremation. The facility shall be permitted to include a chapel for the conduct of funeral services and spaces for funeral services and informal gatherings, and/or display of funeral equipment.

**MOTEL, HOTEL.** Any building containing six or more sleeping units intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

**NONCONFORMING LOT.** A lot whose width, area or other dimension did not conform to the regulations when this code became effective.

**NONCONFORMING SIGN.** A sign or sign structure or portion thereof lawfully existing at the time this code became effective, which does not now conform.

**NONCONFORMING STRUCTURE.** A building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

**NONCONFORMING USE.** See "Use, nonconforming."

**OPEN SPACE.** Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. *Open space* shall be permitted to be devoted to *landscaping*, preservation of natural features, patios, and recreational areas and facilities.

**PARAPET.** The extension of a building façade above the line of the structural roof.

**PARK.** A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

**PARKING LOT.** An open area, other than a street, used for the parking of automobiles.

**PARKING SPACE, AUTOMOBILE.** A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of an automobile.

**PERSON.** A natural person, heirs, executors, administrators or assigns, and includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

**PLANNED UNIT DEVELOPMENT (PUD).** A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

**PLOT PLAN.** A plot of a lot, drawn to scale showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

**POOLS (SWIMMING), HOT TUBS AND SPAS.**

**Above-ground/on-ground pool.** See "Private swimming pool."

**Barrier.** A fence, a wall, a building wall, the wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

**Hot tub.** See "Private swimming pool."

**In-ground pool.** See "Private swimming pool."

**Power safety cover.** A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

**Private swimming pool.** Any structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in R-1, R-2 and R-3 and which is available only to the family and guests of the householder. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs and spas.

**Private swimming pool, indoor.** Any private *swimming pool* that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

**Private swimming pool, outdoor.** Any private swimming pool that is not an indoor pool.

**Public swimming pool.** Any swimming pool other than a private swimming pool.

**Spa.** See "Private swimming pool."

**PORTABLE SIGN.** Any sign not permanently attached to the ground or to a building or building surface.

**PUBLIC IMPROVEMENT.** Any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or for which the local government responsibility is established.

**PUBLIC SERVICES.** Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

**PUBLIC UTILITY STATION.** A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treat water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

**PUBLIC WAY.** Any street, *alley* or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**QUASI-PUBLIC.** Essentially a public use, although under private ownership or control.

**QUORUM.** A majority of the authorized members of a board or commission.

**RECREATION, INDOOR.** An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theatres, and related amusements.

**RECREATION, OUTDOOR.** An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

**RECYCLING FACILITY.** Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

**REGISTERED DESIGN PROFESSIONAL.** An architect or engineer registered or licensed to practice professional architecture or engineering as defined by statutory requirements of the professional registration laws of the state in which the project is to be constructed. [A]

**REHABILITATION CENTER (Halfway House).** An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and halfway houses for prison parolees and juveniles.

**RELIGIOUS, CULTURAL AND FRATERNAL ACTIVITY.** A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

**RENOVATION.** Interior or exterior remodeling of a structure, other than ordinary repair.

**RESTAURANT.** An establishment that sells prepared food for consumption.

**SCHOOL, COMMERCIAL.** A school establishment to provide for the teaching of *industrial*, clerical, managerial or artistic skills. This definition applies to schools that are owned and operated privately for profit and that do not offer a complete educational curriculum (e.g., beauty school or modeling school).

**SETBACK.** The minimum required distance between the property line and the *building line*.

**SIGN.** An advertising message, announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the observer thereof for identification, advertisement or promotion of the interests of any person, entity, product or service, including the sign structure, supports, lighting system and any attachments, ornaments or other features used to draw the attention of observers.

**SIGNS, COMMUNITY.** Temporary, on- or off-premises signs, generally made of a woven material or durable synthetic materials primarily attached to or hung from light poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a jurisdiction-based nonprofit organization.

**SITE PLAN.** A plan that outlines the use and development of any tract of land.

**SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or *kitchen* facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not sleeping units.

**SPECIAL USE.** A use that would become harmonious or compatible with neighboring uses through the application and maintenance of qualifying conditions.

**STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost *story* shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above *grade* as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above *grade* as defined herein at any point, such usable or unused under-floor space shall be considered as a *story*.

**STREET.** Any thoroughfare or *public way* not less than 16 feet in width which has been dedicated.

**STREET, PRIVATE.** A right-of-way or *easement* in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

**STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**SUBDIVISION.** The division of a tract, lot or parcel of land into two or more lots, plats, sites or other divisions of land.

**THEATER.** A building used primarily for the presentation of live stage productions, performances or motion pictures.

**USE.** The activity occurring on a lot or parcel for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

**USE, CHANGE OF.** The change within the classified use of a structure or premise.

**USE, NONCONFORMING.** A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform to the use regulations.

**USE, PRINCIPAL.** A use that fulfills a primary function of a household, establishment, institution or other entity.

**USE, TEMPORARY.** A use that is authorized by this code to be conducted for a fixed period of time. Temporary uses are characterized by such activities as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

**VARIANCE.** A deviation from the height, bulk, setback, parking or other dimensional requirements established by this code.

**WALL OR FASCIA SIGN.** A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed.

**WAREHOUSE, WHOLESALE OR STORAGE.** A building or premises in which goods, merchandise or equipment are stored for eventual distribution.

**WINDOW SIGN.** A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

**YARD.** An open, unoccupied space on a lot, other than a court, which is unobstructed from the ground upward by buildings or structures, except as otherwise provided in this code.

**YARD, FRONT.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the main building or any projection thereto other than the projection of the usual steps.

**YARD, REAR.** A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and rear of the main building or any projections other than steps. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

**YARD, SIDE.** An open, unoccupied space on the same lot with the building and between the building line and the side lot line and extending from the front lot line to the rear lot line.

## **Article 2 – Use Districts and Boundaries**

**Sec. 14.201 Classification:** In order to classify, regulate and restrict the locations of trades, industries, and the location of buildings designed for specific uses, to regulate and limit the height and bulk of building hereafter erected or structurally altered, to regulate and determine the intensity of use of the lot areas, and to regulate and determine the areas of yards, courts and other open

spaces within and surrounding such buildings, the Village is hereby divided into districts, of which there shall be six (6) in number, known as:

- “R-1” Single-Family Dwellings District
- “R-2” Two-Family Dwellings District
- “R-3” Multi-Family Dwellings District
- “B-1” Business & Commercial District
- “I-1” Industrial District (Light)
- “I-2” Industrial District (Heavy)

**Sec. 14.202 Zoning Map:** The boundaries of each zoning district are to be indicated upon the official zoning map as approved by the Village Board. Said map and subsequent amendments thereto shall be considered as a part of this code.

**Sec. 14.203 Annexed Territory:** Any territory hereafter annexed shall automatically, upon such annexation, be classified as “R-1”, Single-Family Dwellings District, and be subject to all conditions and regulations applicable to property in such district.

**Sec. 14.204 Special Uses:** The principal objective of this zoning code is to provide for an orderly arrangement of compatible buildings and land uses, and for the property location of all types of uses required for the social and economic welfare of the community. 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 code. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which it may be necessary to allow because of the unusual characteristics of the service they provide the public. These special uses require particular considerations as to their proper location to adjacent, established or intended uses, or to the planned growth of the community. The conditions controlling the locations and operation of such special uses are established by the applicable sections of this code.

### **Article 3 – Residential Districts**

#### **Sec. 14.301 Permitted Uses.**

Allowable residential (R) district uses shall be:

1. **R-1, Single Family** The following uses are permitted in an R-1 district:
  - a. Single-family dwellings,
  - b. Public owned and operated parks,
  - c. Recreation centers,
  - d. Swimming pools and playgrounds,
  - e. Police and fire department stations,
  - f. Public and governmental services,
  - g. Public libraries, schools and colleges, (excluding colleges or trade schools operated for profit),
  - h. Public parking lots,
  - i. Private garages,
  - j. Buildings accessory to the above permitted uses (including private garages and accessory living quarters),
  - k. Temporary buildings.

2. **R-2, Two Family** The following uses are permitted in an R-2 district:
  - a. Any use permitted in R-1 zones
  - b. Two-family dwellings
  
3. **R-3, Multi-family** The following uses are permitted in R-3 district:
  - a. All uses permitted in R-1 and R-2 districts,
  - b. Multiple-unit dwellings, such as apartment houses, boarding houses, condominiums and congregate residences.

**Sec. 14.302 Special Uses:** The following uses are special uses permitted subject to the public hearing and other special use permit requirements as outlined in Article 11 of this Chapter.

4. **R-1, Single Family** The following uses are special uses in an R-1 district:
  - a. Mortuary and funeral homes
  - b. Automotive repair minor
  - c. Community centers
  - d. Places of religious worship
  - e. Utility and public service buildings and uses
  - f. Group day care
  - g. Cemeteries
  - h. Group care facility
  
5. **R-2, Two Family** The following uses are special uses in an R-2 district:
  - a. Any special use in R-1 zones
  - b. Supported Living Facility
  
6. **R-3, Multi-Family** The following uses are special uses in R-3 District:
  - a. Any special use in R-1 and R-2 districts
  - b. Boarding houses, lodging houses or bed & breakfast
  - c. Membership clubs and loges not primarily orientated to services normally carried on as a business or primarily for gain.

**Sec. 14.303 Area Regulations General.** The minimum area, setbacks, density and maximum height shall be as prescribed in Table 14.303

**TABLE 14.303  
RESIDENTIAL (R) DISTRICT BULK REGULATIONS (in feet, unless otherwise noted)**

| DISTRICT |   | Minimum Lot Area (sq ft) | Maximum Density (dwelling unit/acre) | Lot Dimensions    |                   | Setback Requirements |                   |                   | Maximum Building Height |
|----------|---|--------------------------|--------------------------------------|-------------------|-------------------|----------------------|-------------------|-------------------|-------------------------|
|          |   |                          |                                      | Minimum Lot Width | Minimum Lot Depth | Minimum Front Yard   | Minimum Side Yard | Minimum Rear Yard |                         |
| R-1      | a | 5000                     | 5                                    | 50'               | 100'              | 25'                  | 5'                | 5'                | 35'                     |
|          | b | 11250                    | 3                                    | 75'               | 140'              | 25'                  | 10'               | 5'                | 35'                     |
|          | c | 15000                    | 2                                    | 100'              | 140'              | 25'                  | 10'               | 5'                | 35'                     |
| R-2      |   | 10000                    | 2                                    | 75'               | 140'              | 25'                  | 10'               | 5'                | 35'                     |
| R-3      |   | 10000                    | 12                                   | 100'              | 140'              | 25'                  | 10'               | 5'                | 35'                     |

## Article 4 – Business and Commercial District

**Sec. 14.401 Permitted Uses.** The following uses are permitted in a B-1 district:

1. Amusement and recreation centers,
2. Automotive sales,
3. Minor automotive repair,
4. Major automotive repair
5. Automotive motor fuel dispensing facilities,
6. Automotive self-service motor fuel dispensing facilities,
7. Bakery,
8. Barber shop or beauty shop,
9. Building material supply sales,
10. Business or financial services,
11. Convenience and neighborhood commercial centers (excluding wholesale sales),
12. Community centers,
13. Cultural institutions (such as museums and art galleries),
14. Family and group day care facilities,
15. Farmer’s markets,
16. Health and medical institutions,
17. Hotels and motels,
18. Hospitals and clinics for animals (not open kennels),
19. Commercial printing and publishing,
20. Indoor theaters,
21. Libraries,
22. Laundry and dry-cleaning businesses,
23. Mortuary and funeral homes,
24. Physical fitness centers,
25. Public and governmental services,
26. Police and fire department stations,
27. Places of religious worship,
28. Public utility stations,
29. Retail businesses,
30. Restaurants,
31. Schools and colleges operated for profit (including commercial, vocational and trade schools),
32. Service establishments,
33. Taverns,
34. Self-storage warehouses

**Sec. 14.402 Special Uses:** The following uses are special uses permitted subject to the public hearing and other special use permit requirements as outlined in Article 11 of this Chapter.

1. Any use permitted in the I-1 or I-2 districts

**Sec. 14.403 Area Regulations General.** The minimum area, setbacks, density and maximum height shall be as prescribed in Table 14.403

**TABLE 14.403  
BUSINESS AND COMMERCIAL DISTRICT BULK REGULATIONS (in feet, unless otherwise noted)**

| DISTRICT | Minimum Lot Area (sq ft) | Maximum Density (unit/acre) | Lot Dimensions    |                   | Setback Requirements |                   |                   | Maximum Building Height |
|----------|--------------------------|-----------------------------|-------------------|-------------------|----------------------|-------------------|-------------------|-------------------------|
|          |                          |                             | Minimum Lot Width | Minimum Lot Depth | Minimum Front Yard   | Minimum Side Yard | Minimum Rear Yard |                         |
| B-1      | 6,000                    | 12                          | 30'               | 70'               | 0'                   | 0'                | 5'                | 35'                     |

**Article 5 – Industrial Districts Defined**

**Sec. 14.501 Permitted Uses.** Permitted industrial (I) district shall be as follows:

**1. “I-1” Light Industrial** The following uses are permitted in an I-1 district:

- a. Any light-manufacturing or industrial use, including
- b. Warehouses,
- c. Research or testing laboratories,
- d. Product distribution centers,
- e. Woodworking shops,
- f. Autobody shops,
- g. Furniture assembly,
- h. Dry cleaning plants,
- i. Places of worship,
- j. Public and governmental services,
- k. Machine shops
- l. Any permitted use in the “B-1” Business and Commercial District.

**2. “I-2” Heavy Industrial** The following uses are permitted in an I-2 district”

- a. Any heavy-manufacturing or industrial use,
- b. Stadiums and arena,
- c. Indoor swap meets,
- d. Breweries,
- e. Liquid fertilizer manufacturing,
- f. Carpet manufacturing,
- g. Monuments works,
- h. Regional recycling center,
- i. Paper manufacturing,
- j. Home manufacturing,
- k. Fabrication,
- l. Any permitted use in the “B-1” and “I-1” districts.

**Sec. 14.502 Special Uses:** The following uses are special uses permitted subject to the public hearing and other special use permit requirements as outlined in Article 11 of this Chapter.

**1. “I-1” Light Industrial:** The following uses are special uses in an I-1 district:

- a. Storage, sale, distribution or primary usage of explosive, highly flammable, highly toxic or radioactive materials
- b. Bus or truck garages and storage yards
- c. Open air storage, including automobile wrecking yards
- d. Airports and landing strips

2. **“I-2” Heavy Industrial:** The following uses are special uses in an I-2 district:
  - a. Uses permitted in the I-1 District as special uses
  - b. A motor freight terminal with employee sleeping accommodations
  - c. Processing of animal and/or vegetable products, such as tanneries, distilleries, breweries, rendering plants, plants for the production of glue, soap, paint or varnish
  - d. Extraction and processing of stone, sand and gravel, including the necessary processing and loading equipment and structures

**Sec. 14.503 Area Regulations:** The minimum area, setbacks, density and maximum height shall be as prescribed in Table 14.503

**TABLE 14.503  
INDUSTRIAL DISTRICT BULK REGULATIONS (in feet, unless otherwise noted)**

| DISTRICT | Minimum Lot Area (sq ft) | Maximum Density (unit/acre) | Lot Dimensions    |                   | Setback Requirements |                   |                   | Maximum Building Height |
|----------|--------------------------|-----------------------------|-------------------|-------------------|----------------------|-------------------|-------------------|-------------------------|
|          |                          |                             | Minimum Lot Width | Minimum Lot Depth | Minimum Front Yard   | Minimum Side Yard | Minimum Rear Yard |                         |
| I-1      | 10,000                   | NONE                        | 50'               | 75'               | 0'                   | 0'                | 10'               | 50'                     |
| I-2      | 10,000                   | NONE                        | 75'               | 100'              | 0'                   | 0'                | 0'                | 65'                     |

### Article 6 – General Provisions

**Sec. 14.601 Off-street parking:** Off-street parking shall be provided in compliance with this Article whenever any building is erected, altered, enlarged, converted or increased in size or capacity.

1. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 14-601.1., provided that any fractional parking space is computed as a whole space.

**TABLE 14-601  
OFF-STREET PARKING SCHEDULE**

| USE                                  | NUMBER OF OFF-STREET PARKING SPACES REQUIRED |
|--------------------------------------|--|
| Retail                               | 1 per 200 finished square feet               |
| Professional                         | 1 per 300 finished square feet               |
| Light Industrial                     | 1 per 400 square feet                        |
| Heavy Industrial                     | 1 per 500 square feet                        |
| Home Occupation                      | 1  |
| Single Family Dwelling               | 2  |
| Two-family and Multi-family dwelling | 1 per dwelling unit                          |

2. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.
3. The parking spaces required by this code shall be provided on the same lot as the use of where the exclusive use of such is provided on another lot not more than 500 feet radially from the subject lot within the same or less-restrictive zoning district.

4. Accessible parking spaces and passenger loading zones shall be provided in accordance with the Village's building code. Passenger loading zones shall be designed and constructed in accordance with ICC A117.1.

**Sec. 14.602 Fence Heights:** Fence and retaining wall heights in required yards shall not exceed those found in Table 14.602

**TABLE 14.602  
MAXIMUM FENCE HEIGHTS**

| ZONING DISTRICT   | YARDS       | HEIGHT (feet) |
|-------------------|-------------|---------------|
| R-1, R-2, and R-3 | Front       | 3.5           |
|                   | Rear        | 6.0           |
|                   | Side        |               |
|                   | Lot side    | 6.0           |
|                   | Street side | 5.0           |
| B-1, I-1 and I-2  | Front       | 6.0           |
|                   | Rear        | 8.0           |
|                   | Side        |               |
|                   | Lot side    | 8.0           |
|                   | Street side | 6.0           |

**Section 14.603 Accessory Buildings:**

1. Accessory buildings shall occupy the same lot as the main use or building.
2. All accessory buildings shall be separated from the main building by not less than 10 feet.
3. An accessory building used as a *private garage* shall be permitted to be located in the rear yard or side yard provided that setbacks are maintained, and the structures do not encroach into any recorded easements.
4. All accessory buildings used for storage of other similar use shall be permitted to be located in any portion of the rear yard or side yard. No storage building shall be located in the front yard.
5. No more than two accessory buildings shall be located on any lot.

**Section 14.604 Allowable Projections into Yards:**

1. Eaves, cornices or other similar architectural features shall be permitted to project into a required yard no more than 12 inches. Chimneys shall be permitted to project no more than 2 feet provided the width of any side yard is not reduced to less than 30 inches.
2. Front yards. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet into the required front yard, provided such porch does not extend above the first level and is no more than 6 feet above grade at any point.
3. Windows shall be permitted to project into a required rear yard no more than 6 inches.

**Section 14.605 Landscaping Requirements:**

1. Landscaping is required for all new buildings and additions over 500 square feet as defined in this section. Said landscaping shall be completed within one year from the date of occupancy of the building.

2. Front yards required by this code shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.
3. All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.
4. All live landscaping required by this code shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized and irrigated on a regular basis.

**Sec. 14.606 Passageways:**

There shall be a passageway leading from the public way to the exterior entrance of each dwelling unity in every residential building of not less than 10 feet in width. The passageway shall be increased by 2 feet for each story over two.

There shall be at least 10 feet of clear space between every main building and accessory building on a lot. There shall be at least 20 feet of clear space between every residential building and another main building on the same lot.

Passageways shall be permitted to be located in that space set aside for required yards.

Passageways shall be open and unobstructed to the sky and shall be permitted to have such projections as allowed for yards, provided the users of said passageway have a clear walkway to the public way. Any space between buildings or passageways that has less width than that prescribed herein shall not be further reduced.

**Sec. 14.607 Approval for and Availability of Essential Services:**

All projects that require the additional use of new facilities or essential services, such as sewers, storm drains, fire hydrants, potable water, public streets, street lighting and similar services, shall obtain such approval as required by the agency providing such service prior to project approval.

Non-availability of essential services shall be permitted to be grounds for denying permits for additional development until such services are available. The Village is not obligated to extend or supply essential services if capacity is not available. If capacity is available, the extension of services shall be by and at the cost of the developer, unless the Village agrees otherwise. All service extensions shall be designed and installed in full compliance with the Village's standards for such service, and shall be subject to review, permit and inspection as required by other policies or ordinances of the Village.

**Sec. 14.608 Restrictions:**

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for the purpose permitted in the district in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.
4. The front yard requirements on both streets of a corner lot shall be observed by all buildings and structures, including accessory buildings.
5. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in the Ordinance.
6. No portion of a driveway constructed or installed on a lot shall be within 3 feet of any side yard lot line. This restriction shall apply to any driveway no matter how constructed

whether it is constructed of cement, asphalt, gravel, dirt or any other surface that is used as a driveway.

7. Garages shall not exceed the height of the main building on the lot on which it is constructed.
8. It shall be unlawful for any person or persons to live in a house trailer, which is maintained, parked or placed anywhere or brought into the Village of Deer Creek.
9. All construction shall be of new material.
10. Improvements on any parcel in the Residential Districts must maintain 50% green space.

#### **Sec. 14.609 Additional Regulations**

1. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches and temples may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each yard line at least one (1) foot for each foot of additional building height about the height limit otherwise provided in the district in which the building is located.
2. Single-family and two-family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height.
3. Accessory buildings may be built in a required rear yard, but such accessory buildings shall not occupy more than thirty percent (30%) of the required rear yard. Whenever a lot abuts upon an alley, one-half (1/2) of the width of the alley may be considered as a portion of the required rear yard.

### **Article 7 – Home Occupations**

**Sec. 14.701 Home Occupations:** Home occupations shall be permitted in all zones provided the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purpose. Home occupation shall be conducted wholly within the primary structure on the premises.

#### **Sec. 14.702 Conditions:**

1. The home occupation shall not exceed 15 percent of the floor area of the primary structure.
2. Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.
4. There shall be no exterior display or storage of goods on said premises.
5. Home occupations involving beauty shops or barber shops shall require a special use permit.

### **Article 8 – Planned Unit Development**

**Sec. 14.801 Approval.** Planned unit developments (PUDs) shall be allowed by Zoning Board of Appeals approval in any zoning district. No such planned unit development permit shall be granted unless such development will meet the use limitations of the zoning district in which it is located and meet the density and other limitations of such districts, except as such requirements may be lawfully modified as provided by this code. Compliance with the regulations of this code in no way excuses the developer from the applicable requirements of a subdivision ordinance, except as

modifications thereof are specifically authorized in the approval of the application for the planned unit development.

**Sec. 14.802. Intent.** These regulations are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within a PUD. These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this ordinance and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values or the character of the neighborhood or the health, safety and welfare of the community. It is intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

**Sec.14.803 Area.** No planned unit development shall have an area less than that approved by the Zoning Board of Appeals as adequate for the proposed development.

**Sec. 14.804 Uses.** A planned unit development which will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered a permitted use in a planned unit development, which allows residential uses and shall be governed by density, design and other requirements of the planned unit development permit. Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use district.

**Sec. 14.805 Ownership.** The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

**Sec. 14.806 Design.** The planning commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.

1. Density. Density of land use shall in no case be more than 15 percent higher than allowed in the zoning district.
2. Arrangement. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.
3. Specific regulations. Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan.

**Sec. 14.807 Open spaces.** Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

1. Dedication of the land as a public park or parkway system; or
2. Creating a permanent, open space easement on and over the said private open spaces to guarantee that the open space remains perpetually in recreational use, with ownership and maintenance being the responsibility of an owners' association established with articles of association and bylaws, which are satisfactory to the legislative body.

**Sec. 14.808 Landscaping.** Landscaping, fencing and screening related to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Zoning Board of Appeals for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall be submitted to the Zoning Board of Appeals with the application.

**Sec. 14.809 Signs.** The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application.

**Sec. 14.810 Desirability.** The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general wellbeing of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the planned unit development.

## **Article 9 – Special Use**

**Sec. 14.901 Special Permits and Uses:** The Village Board may, by special use after public hearing held by the Zoning Board of Appeals and subject to such protective restriction as it may deem necessary authorize the use of any of the following buildings or uses:

1. Any public use of any department of a municipal, county, state, or federal government.
2. Any use which is generally similar to the uses permitted in the district in which such proposed use is sought to be located by special permit which conforms to the regulations for such district.
3. Subject to the provisions hereinafter stated, the Village Board may, by special permit and after public hearing held by the Zoning Board of Appeals and subject to such protective restrictions as it may deem necessary, authorize the upper floor and/or less than one-half of the total square feet of the ground floor of any building located in a B-1 Business and Commercial District to be used for dwelling purposes, including but not limited to R-1 Single Family dwelling purposes and R-2 Two Family dwelling purposes. However, any such R-1 Single Family dwelling and R-2 Two Family dwelling use must comply with all the other requirements contained within the applicable provisions of this zoning code with regard to said uses.

**Sec. 14.902 Special Use Review Criteria:** A request for a special use permit shall be permitted to be approved, approved with conditions, or denied. Each request for special use approval shall be consistent with the criteria listed below:

1. The request is consistent with all applicable provisions of the comprehensive plan.
2. The request shall not adversely affect adjacent properties.
3. The request is compatible with the existing or allowable uses of adjacent properties.
4. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
5. The request can demonstrate adequate provision for maintenance of the use and associated structures.
6. The request has minimized, to the degree possible, adverse effects on the natural environment.

7. The request will not create undue traffic congestion.
8. The request will not adversely affect the public health, safety or welfare.
9. The request conforms to all applicable provisions of this code.

## **Article 10 – Variances**

**Sec. 14.1001 General Variances.** Upon an application submitted by the property owner on a form approved by the Village of Deer Creek, the Village Board of Trustees, after a public hearing before the Zoning Board of Appeals, may determine and vary the regulations of this Title in harmony with their general purpose and intent only in the specific instance hereinafter set forth, where the Zoning Board of Appeals make finding of fact in accordance with the standards hereinafter prescribed and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Chapter. All procedural requirements set forth under the Illinois Municipal Code shall be observed for the award of a variance.

**Sec. 14.1002 Specific Variances.** The following situations, and only those situations, are permissible areas in which variations from the regulations of this Chapter are allowed to be granted when in accordance with the standards established in this Section:

1. To permit the extension of a district where the boundary line of a district divides a lot in single ownership as shown of record.
2. To permit the reconstruction of a non-conforming building which has been destroyed or damaged to an extent of more than fifty percent (50%) of its value, by fire or act of God, or the public enemy, where the board shall find some compelling public necessity requiring a continuance of the non-conforming use, and in no case shall such a permit be issued if its primary function is to continue a monopoly.
3. To make a variance, by reason of an exceptional situation, surroundings, or condition of a specific piece of property or by the reason of exceptional narrowness, shallowness or shape or a specific piece of property of record, or by reason of exceptional topographical conditions the strict application of any provision of this Ordinance would result in peculiar and exceptional practical difficulties or particular hardship upon the owner of such property, and amount to a convenience to such owner , provided such relief can be granted without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this Ordinance.
4. To waive the parking requirements, if any, in the business or industrial districts whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or convenience.
5. To permit a building to be erected, or reconstructed, altered or enlarged so that the building lines will extend beyond the distance specified in this Ordinance into side yards or into front yards, provided that such variance may not be granted: (1) unless there is a building in the block which extends beyond the distance from the front street line specified in this Ordinance, in which case the building line may be permitted to extend as near to the front street line as such non-conforming building or (2) unless the lot is irregular in shape, topography or size; or (3) unless the street line of the lot is directly opposite the street line of a lot which is irregular in shape, topography or size.
6. To permit in any district such modification of the requirements of the regulations of this Code as said board may deem necessary to secure an appropriate development of a lot where

adjacent to such a lot on two or more sides there are buildings that do not conform to the regulations of the district.

7. To permit the construction or installation of a driveway on a lot within 3 feet of any lot line. This restriction shall apply to any driveway no matter how construction whether it is constructed of cement, asphalt, gravel, dirt or any other surface that is used as a driveway.

Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change the Zoning Ordinance or the District Map; such power and authority being reserved to the Village Board of Trustees.

**Sec. 14.1003 Variance Review Criteria.** The Board of Appeals shall be permitted to make recommendations to the Village Board of Trustees to approve, approve with conditions or deny a request for a variance. No variance may be granted unless the Zoning Board of Appeals makes findings of fact, based upon the evidence presented to it in each specific case, that:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out
2. The conditions upon which the variance is based are unique to the property for which the variance is sought and are not generally applicable to other property within the same zoning district
3. The purpose of the variance is not exclusively a desire for financial gain
4. The alleged difficulty or hardship is caused by the Code and has not been created by any persons presently having an interest in the property
5. Granting the variance will not be detrimental to the public welfare of injurious to other property or improvements in the neighborhood in which the property is located
6. The proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

**Sec. 14.1004 Conditions on Award of Variance.** The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set forth in this Article, to reduce or minimize the effect of such variation upon other properties in the neighborhood, and to better carry out the general intent of this Chapter. A 0' (zero-foot) setback variance request shall require a property survey to be filed with the request.

## **Article 11 – Swimming Pools**

**Sec. 14.1101 Permit Required:** No person or organization shall proceed to construct a swimming pool or make alterations to an existing pool without first having obtained a permit issued and signed by the Building Inspector upon approval of the application. A permit shall be valid for the life of the swimming pool. Applications for a permit shall contain such information and drawings as shall be required by the Enforcing Officer for a proper understanding of the proposed work.

**Sec. 14.1102 Construction and Operation Standards.** The following standards shall apply to the constructions and/or operation of swimming pools within the Village of Deer Creek:

1. Public swimming pools, their equipment and operation, shall comply with the Minimum Sanitary Requirements for Swimming Pools of the Illinois Department of Public Health. Pools and appurtenant equipment shall not extend into the required front and side yards

- provided for in this chapter and subject to the provisions herein provided.
2. No family pool shall be so located, designed, operated, or maintained as to interfere unduly with the enjoyment of their property rights by owners of property adjoining the family pool or located in the neighborhood. No permit is required for erection of a portable pool. A portable pool is defined as any above ground level swimming pool which is not designed to be permanently fixed in one place, but which is intended to be capable of being removed and stored. It is solely the responsibility of the property owner that these types of pools are not a safety hazard or do not become a health hazard.
  3. No private or public pool shall be erected or altered so as to place any portion thereof nearer to a street lot line than the building line setback provided by this chapter. On a corner lot, no swimming pool shall be erected or altered so as to bring any portion of the fence of the pool, as is required in this chapter nearer to the front street lot line than provided by this chapter. No swimming pool shall be erected or altered on any lot so as to permit its location in any side yard or rear yard nearer than ten (10) feet from any dwelling located on an adjoining lot and not less than three (3) feet from any side or rear lot line.
  4. A fence or wall shall be installed and maintained to completely surround an in-ground pool. The fence or wall shall be an effective barrier to small children and be at least forty-eight (48) inches high. Gates shall be equipped with self-closing and self-latching devices and shall be kept locked except when pool is in use. In the case of all above-ground pools, including portable pools, ladders will be locked or removed except when in use. Lights used to illuminate any family pool shall be so arranged and shaded as to reflect light away from adjoining premises.
  5. It shall be unlawful for any person to make, continue, or cause to be made or continued at any family pool any loud, unnecessary, or unusual noise or any noise which annoys, disturbs, injures, or is dangerous to the comfort, repose, health, peace, or safety of others. In the operation of a family pool, the use or permitting the use or operation of any radio, receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing of the persons who are in the family pool premises shall be unlawful. Every person using an outdoor family pool shall wear a bathing suit or other suitable garment to protect his person from indecent exposure.

## **Article 12 – Interpretation**

**Sec. 14.1201 Interpretation and Conflicts:** In interpreting and applying the provisions of this Chapter, these provisions shall be held to the minimum requirements for the promotion of public health, safety, morals, comfort, and general welfare. It is not intended by this chapter to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided that wherever this Chapter imposes greater restrictions upon the use of buildings, structures, or land or requires more restrictive building lines, then the provisions of this Chapter shall control.

## **Article 13 – Non-conforming Uses**

**Sec. 14.1301 Continued Use:** Except as otherwise required by law, a structure or use legally established prior to the adoption date of this code may be maintained unchanged. In other than criminal proceedings, the owner, occupant or user shall have the burden to show that the structure, lot or use was lawfully established.

**Sec. 14.1302 Partial Destruction:** If any nonconforming structure or use is, by any cause, damaged to the extent of 50 percent of its value as determined by the code official, it shall not thereafter be reconstructed as such.

**Sec. 14.1303 Discontinued Use:** Any lot or structure, or portion thereof, occupied by a nonconforming use, which is or hereafter becomes vacant and remains unoccupied by a nonconforming use for a period of 6 months shall not thereafter be occupied, except by a use that conforms to this code.

**Sec. 14.1304 Power to Order Removal:** A non-conforming structure which is erected, converted or structurally altered in violation of the provisions of this Chapter may be ordered removed or corrected by the proper officials at any time.

#### **Article 14 - Violations and Penalties**

**Sec. 14.1401 Fines.** 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 no less than One Hundred Dollars (\$100.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense. Each day that a violation is permitted to exist shall constitute an offense.

**Sec. 14.1402 Other Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure or land is used in violation of this ordinance, the proper authorities of the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance or use or to restrain, correct or abate such violations; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

*Revised June 2018 Ord 650*

#### **Article 15 – Solar Energy Systems (SES)**

**Sec. 14.1501 Scope:** This Article applies to all solar energy installations within the corporate boundaries of the Village.

**Sec. 14.1502 Purpose:** The purpose of this Article is to promote and encourage economic development, while maintaining order in the construction, installation, and operation of Solar Energy Systems (SES) in the Village, while ensuring protection of the health, safety, and welfare of the residents of the Village by promoting the safe, effective, and efficient use of solar energy to reduce on-site consumption of fossil fuels or utility-supplied electric energy. Also, to avoid adverse impact to important areas such as agricultural land, endangered species habitats, conservation land, and other sensitive lands. This Article shall not be deemed to nullify any provisions of local, state, or federal law.

**Sec. 14.1503 Definitions:**

***Active Solar Energy System.*** A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

***Building-integrated Solar Energy Systems.*** An active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

***Grid-intertie Solar Energy System.*** A photovoltaic solar energy system that is connected to an electric circuit served by an electric utility company.

***Ground Mount.*** A solar energy system mounted on a rack or pole that rests on or is attached to the ground.

***Off-grid Solar Energy System.*** A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility company.

***Passive Solar Energy System.*** A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

***Photovoltaic System.*** An active solar energy system that converts solar energy directly into electricity.

***Renewable Energy Easement, Solar Energy Easement.*** An easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

***Roof Mount.*** A solar energy system that is mounted on a rack that is fastened onto a building roof.

***Solar Access.*** Unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

***Solar Collector.*** An assembly, structure, and the associated equipment and housing designed for gathering, concentrating, or absorbing direct and indirect solar energy for which the primary purpose is to convert or transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

***Solar Energy.*** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

***Solar Energy System (SES).*** All components required to become a complete assembly or structure that will convert solar energy into electricity for use.

***Solar Energy System Addition.*** A private solar energy system which is structurally attached to a building or structure on the zoning lot on which said system is located. Said system shall be considered part of the building and shall comply with all provisions of this Chapter pertaining thereto.

***Solar Energy System, Private.*** A collection of **one (1)** or more solar collectors designed for use by the occupant(s) of the zoning lot on which said system is located; excess power generation is limited to net metering or similar technology with regulations set by the local power utility, community, county, and state. Private solar energy system equipment shall conform to applicable industry standards, and applicants for building permits for private solar energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

***Solar Farm.*** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the principal land use for the parcel on which it is located.

**Solar Garden (Community Solar).** A commercial solar-electric (photovoltaic) array, of no more than **twenty (20) acres** in size, that provides retail electric power (or a financial proxy for retail power) to multiple households or businesses residing in or located off-site from the location of the solar energy system. A Solar Garden, whether an accessory use when a part of an existing or a proposed subdivision, or a principal use, is a special use requiring a special use permit.

**Solar Heat Exchanger.** A component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

**Solar Hot Air System.** An active solar energy system (also referred to as Solar Air Heat or Solar Furnace) that includes a solar collector to provide direct supplemental space heating by heating and re-circulating conditioned building air.

**Solar Hot Water System.** A system (also referred to as Solar Thermal) that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

**Solar Mounting Devices.** Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or the ground.

**Solar Storage Unit.** A component of a solar energy device that is used to store solar generated electricity or heat for later use.

**Sec. 14.1504 Building Permit Requirements and Fees:** All Solar Energy Systems (SES) greater than 25 square feet in size will be required to have a Village Building Permit before any work can be started. A written plan and a plat/drawing for the proposed Solar Energy System shall be provided with the Building Permit Application. The plat/drawing must show the location of the system on the building or on the property, (for a ground-mount system show arrangement of panels), with all property lines and set back footages indicated. Fees for processing the applications for building permits shall be submitted to and collected by the Village. Any solar photovoltaic system requires the following permit fees:

|               |       |
|---------------|-------|
| 0 to 20 kW    | \$100 |
| 21 to 250 kW  | \$250 |
| 251 to 500 kW | \$500 |

**Sec. 14.1505 Permitted/Special Use:**

(A) A single ground mount, roof mount or building integrated private solar energy system for residential/business use is permitted as an Accessory Use in the Village where there is a principal structure and shall be subject to the regulations for accessory uses.

(B) Solar Gardens shall be allowed in the Village, and shall require a Special Use Permit, whether, as the accessory or principal use of the property. Unless otherwise noted in this Chapter, solar gardens must comply with all required standards for structures in the district in which the system is located.

(C) Solar Farms require a Special Use Permit. Unless otherwise noted in this Chapter, solar farms must comply with all required standards for structures in the district in which the system is located.

**Sec. 14.1506 Setback Requirements:**

(A) Setback requirements for all Solar Energy Systems (SES) shall meet the structure minimum setback requirements when the SES is oriented at any and all positions.

(B) No solar energy system shall be allowed to be placed in the front yard of any residentially used or zoned property.

(C) Roof mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted.

**Sec. 14.1507 Height Requirements:**

(A) Building or roof mounted solar energy systems shall not exceed the maximum allowed height for Accessory uses.

(B) Ground or pole mounted solar energy systems shall not exceed the maximum height allowed for accessory buildings, when oriented at maximum tilt for accessory uses.

**Sec. 14.1508 Other Requirements:**

(A) Upon request from the Village, an owner of a Solar Energy System must provide documentation, within **thirty (30) days**, that the Solar Energy System is still in use. If it is not, the owner of the System will have **one hundred eighty (180) days**, after notification from the Village, to remove the Solar Energy System from the property.

(B) Upon request from the Village, the owner or operator of a Solar Farm or a Solar Garden must submit, within **fourteen (14) days**, a current operation and maintenance report.

(C) In all undeveloped areas, the Solar Energy developer will be required to complete a consultation with both the Illinois Historic Preservation Agency (IHPA) and the Illinois Department of Natural Resources (IDNR) through the Department's online EcoCat Program. The cost of this consultation shall be at the developer's expense. The final certificate from EcoCat shall be provided to the Village before a permit or Special Use Permit will be issued.

(D) No fencing is required. However, if installed on the property the fencing shall have a maximum height of **six (6) feet**. The fence shall contain appropriate warning signage that is posted such that is clearly visible on the site.

(E) Green space requirements must be maintained according to the zoning district in which the Solar is being constructed.

(F) Any lighting for Solar Farms/Gardens/Community Solar shall be installed for security and safety purposes only. Except for lighting that is required by the FCC or FAA, all lighting shall be shielded so that no glare extends substantially beyond the boundaries of the facility.

(G) Reflection angles for solar collectors shall be oriented such that they do not project glare onto adjacent properties.

(H) Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

(I) Solar Energy Systems must be in compliance with ALL State of Illinois Building, Electric, Plumbing and Energy Codes.

(J) **Design Standards.** Active solar energy systems shall be designed to conform to all current Illinois State building, electric, and plumbing Codes, and to blend into the architecture of the building. The color of the solar collector is not required to be consistent with other roofing materials.

(1) **Building Integrated Photovoltaic Systems.** Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setback, land use or performance standards for the district in which the building is located.

(2) **Solar Energy System with Mounting Devices.** Solar energy systems using roof mounting devices or ground-mount solar energy systems shall not be restricted under this subsection, if the system is not visible from the closest

edge of any public right-of-way, or if the system is immediately adjacent to a residential structure.

- (3) **Reflectors.** All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.

(K) **Coverage.** Roof or building mounted solar energy systems, excluding building-integrated systems, shall allow for adequate roof access for fire-fighting purposes, as recommended by the National Fire Protection Association, to the roof upon which the panels are mounted. Ground-mount private solar energy systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation. Foundations, gravel, or compacted soils are considered impervious.

(L) **Plan Approval Required.** All solar energy systems shall require administrative plan approval by the Public Works Superintendent via the review of the application for a building permit.

- (1) **Plan Applications.** Plan applications for solar energy systems shall be accompanied by horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

(a) **Pitched Roof Mounted Solar Energy Systems.** For all roof-mounted systems other than a flat roof the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

(b) **Flat Roof Mounted Solar Energy Systems.** For flat roof applications a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

- (2) **Plan Approvals.** Applications that meet the design requirements of this Chapter, and do not require an administrative variance, shall be granted administrative approval by the Village President. Plan approval does not indicate compliance with Building Code or Electric Code.

(M) **Approved Solar Components.** Electric solar energy system components must have a UL listing or approved equivalent and solar hot water systems must have an SRCC rating.

(N) **Compliance with Building Code.** All active solar energy systems shall meet approval of building code officials, consistent with the State of Illinois Building Code and solar thermal systems shall comply with HVAC-related requirements of the Energy Code. Any adopted building codes will apply and take precedence where applicable.

(O) **Compliance with State Electric Code.** All photovoltaic systems shall comply with Illinois State Electric Code.

(P) **Compliance with State Plumbing Code.** Solar thermal systems shall comply with applicable Illinois State Plumbing Code requirements.

(Q) **Compliance with State Energy Code.** All photovoltaic systems and solar thermal systems shall comply with the Illinois State Energy Code.

(R) **Utility Notification.** All grid-intertie solar energy systems shall comply with the interconnection requirements of the electric utility. Off-grid systems are exempt from this requirement.

(S) **Principal Uses.** The Village encourages the development of commercial or utility scale solar energy systems where such systems present few land-use conflicts with current and future development patterns. Ground-mounted solar energy systems that are the principal use on the zoning lot or lots are special uses.

(1) **Solar Gardens.** The Village permits the development of unincorporated solar gardens, subject to the following standards and requirements:

- (a) **Rooftop Gardens Permitted.** Rooftop community systems are permitted in all zoning districts where buildings are permitted.
- (b) **Ground-Mount Gardens.** Ground-mount community solar energy gardens must be less than **twenty (20) acres** in total size. Ground-mount solar developments covering more than **twenty (20) acres** shall be considered solar farms.
- (c) **Stormwater and NPDES.** Solar gardens are subject to Village regulations, erosion and sediment control provisions and NPDES permit requirements.
- (d) **Interconnection.** An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
- (e) **Other Standards.** Ground-mount systems must comply with all required standards for structures in the district in which the system is located. All solar gardens shall also be in compliance with all applicable local, state and federal regulatory codes, including the State of Illinois Uniform Building Code, as amended; and the National Electric Code, as amended. Also, Health Department requirements for wells and septic systems must be met.

(2) **Solar Farms.** Ground-mount solar energy systems that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market, are permitted under the following standards:

- (a) **Special Use Permit.** Solar farms are special uses.
- (b) **Stormwater and NPDES.** Solar farms are subject to Village Stormwater Management regulations, erosion and sediment control provisions and NPDES permit requirements.
- (c) **Ground Cover and Buffer Areas.** Top soils shall not be removed during development, unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. A plan must be approved by the Soil Water Conservation District and paid for by the developer. It is required that any crops planted be in compliance with all applicable federal and state laws protecting endangered species. This will also include pollinators such as bees. A report showing demonstration of plan compliance shall be submitted annually, and paid for by the developer.
- (d) **Foundations.** A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
- (e) **Other Standards and Codes.** All solar farms shall be in compliance with all applicable local, state and federal regulatory codes, including

the State of Illinois Uniform Building Code, as amended; and the National Electric Code, as amended.

- (f) **Power and Communication Lines.** Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings shall be buried underground.
- (g) **Site Plan Required.** A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, right-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, farm tile, electric equipment, fencing, and screening materials and all other characteristics requested by the Village. The site plan should also show all zoning districts and overlay districts.
- (h) **Endangered Species and Wetlands.** Solar farm developers shall be required to initiate a natural resource review consultation with the Illinois Department of Natural Resources (IDNR) through the department's online, EcoCat program. Areas reviewed through this process will be endangered species and wetlands. The cost of the EcoCat consultation will be borne by the developer.

#### **Sec. 14.1509 Liability Insurance and Indemnification:**

(A) For Solar Farms and Solar Gardens, commencing with the issuance of building permits, the Applicant, Owner, or Operator shall maintain a current general liability policy covering bodily injury and property damage with limits of at least **Three Million Dollars (\$3,000,000.00)** per occurrence and **Five Million Dollars (\$5,000,000.00)** in the aggregate. Such insurance may be provided pursuant to a plan of self-insurance, by a party with a net worth of **Twenty Million Dollars (\$20,000,000.00)** or more. The Village shall be named as an individual insured on the policy to the extent the Village is entitled to indemnification.

(B) For Private/Individual SES(s), commencing with the issuance of building permit, the Applicant or Owner shall maintain a current liability policy covering bodily injuries and any damage that may occur, on their homeowner's policy or other applicable policy as approved by the Director of Community Development.

(C) Any SES(s), Applicant, Owner, or Operator, whether individual or commercial, shall defend, indemnify, and hold harmless the Village and its officials, employees, and agents (collectively and individually, the "Indemnified Parties") from and against any and all claims, demands, losses, suits, causes of actions, damages, injuries, costs, expenses, and liabilities whatsoever, including reasonable attorney's fees, except to the extent arising in whole or part out of negligence or intentional acts of such Indemnified Parties (such liabilities together known as "liability") arising out of Applicant, Owner, or Operators selection, construction, operation, and removal of the SES(s) and affiliated equipment including, without limitation, liability for property damage or personal injury (including death), whether said liability is premised on contract or on tort (including without limitation strict liability or negligence). This general indemnification shall not be construed as limited or qualifying the Village's other indemnification rights available under the law.

#### **Sec. 14.1510 Decommissioning:**

(A) In the event that the State of Illinois enacts a law with regards to the decommissioning of a Solar Farm, or Solar System, the strictest requirements shall prevail.