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Evergreen Park, IL Municipal Code

## **CHAPTER 25 EVERGREEN PARK ZONING CODE**

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**ARTICLE I  
GENERAL PROVISIONS**

**Sec. 25-10. Title.**

This Code shall be known as the Evergreen Park Zoning Ordinance or the Evergreen Park Zoning Code.

### **Sec. 25-11. Authority and Purposes.**

This Code is adopted pursuant to the home rule authority of the Village for the following purposes:

A. *Land Use Patterns.* The purposes of this Code related to land use patterns are to:

1. Implement and foster the goals and policies of economic growth and quality of residential neighborhoods; and
2. Establish a rational pattern of land uses and encourage the most appropriate use of individual parcels of land in the Village; and
3. Encourage compatibility between different land uses; and
4. Provide for the gradual elimination of nonconforming uses that adversely affect the character and value of permitted development; and
5. Protect the scale and character of the existing residential, business, commercial, cemetery, industrial and office development areas of the Village from the encroachment of incompatible uses; and
6. Encourage and enhance the preservation of natural resources, aesthetic amenities, and natural features; and
7. Secure adequate natural light, clean air, privacy, a safe environment, and convenience of access to property; and
8. Promote and protect the public health, safety, morals, and the general welfare of the Village.

B. *Public Infrastructure.* The purposes of this Code related to public infrastructure are to:

1. Facilitate the most efficient use of existing and planned public facilities and utilities; and
2. Protect existing public facilities and utilities from being overloaded due to excess development; and
3. Protect and enhance a pattern of interconnected streets and highways that is unified, integrated, safe, effective, and efficient; and
4. Regulate use along arterial streets and highways to protect their through-traffic function and capacity; and
5. Protect residential streets from degradation by nonresidential traffic; and
6. Reduce congestion and promote safety on streets and highways by limiting traffic generation through the control of land use intensity; and
7. Establish and regulate setback lines along streets, highways, and property lines.

C. *Justifiable Expectations and Taxable Value.* The purposes of this Code related to justifiable expectations and taxable value are to:

1. Protect and respect the justifiable reliance of existing residents, business owners, and taxpayers on the continuation of existing, established land use patterns; and
2. Protect and enhance the taxable value of land and buildings.

## **Sec. 25-12. General Applicability.**

A. *Territorial Application.* This Code shall apply to all land, structures, and uses within the corporate limits of the Village.

B. *General Application.* All structures erected hereafter, all uses of land or structures established hereafter, all structural alterations or relocations of existing structures occurring hereafter, and all enlargements and extensions of, additions to, changes in, and relocations of existing uses occurring hereafter shall be subject to all regulations of this Code applicable to the zoning districts in which such land, structures, or uses are located. Existing structures and uses that do not comply with the regulations of this Code shall be subject to the provisions of this Code relating to nonconformities.

C. *General Prohibition.* No structure, no use of any structure or land, and no lot of record or zoning lot, now or hereafter existing, shall hereafter be established, enlarged, extended, altered, moved, divided, or maintained in any manner, except as authorized by the provisions of this Code and except in compliance with the regulations of this Code. Without limiting the foregoing, any such activity that would cause any existing structure not to comply with this Code or that would create any parcel of land that could not be developed in compliance with this Code shall be prohibited.

D. *Special Prohibition: Multiple Uses on Same Zoning Lot.* No zoning lot in any residential district in the Village shall be used for more than one principal use or one principal structure.

## **Sec. 25-13. Provisions are Minimum Requirements.**

In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, and general welfare, as set forth in the provisions hereof establishing the intent and purpose of this Code in general and its various sections in particular. When the provisions of this Code impose greater restrictions than those of any statute, other ordinances, or regulation, then the provisions of this Code shall be controlling. When the provisions of any statute, other ordinance, or regulation impose greater restrictions than this Code, then the provisions of such statute, other ordinance, or regulation shall be controlling.

## **Sec. 25-14. Provisions are Cumulative.**

The provisions of this Code shall be interpreted to be cumulative of, and to impose limitations in addition to, all other codes, laws, and ordinances in existence or which may be passed governing any subject matter of this Code. The several provisions of this Code also shall be interpreted to be cumulative of each other. To the greatest extent possible, the provisions of this Code shall be construed to be consistent with, and not in conflict with, the provisions of such other codes, laws, and ordinances, and with each other, to the end that all such provisions may be given their fullest application.

## **Sec. 25-15. Provisions are Not a Consent, License, or Permit.**

The provisions of this Code shall not be interpreted to be, or to grant, a consent, license, or permit to use any property or to establish, locate, construct, or maintain any structure or use, or to carry on any trade, industry, occupation, or activity.

## **Sec. 25-16. Unlawful Uses and Structures are Not Validated.**

This Code shall not be interpreted to validate or make lawful any unlawful use or structure existing upon the effective date of this Code. Any such unlawful use or structure shall remain unlawful to the extent that said use or structure is in conflict with the provisions of this Code.

### **Sec. 25-17. Penalties.**

A. Any person who shall violate, disobey, omit, neglect or refuse to comply with, or who shall resist enforcement of any provision of this Code shall be subject to a fine of not less than \$100.00 nor more than \$1,000.00 for each offense. Each day a violation continues to exist shall constitute a separate offense.

B. 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 Code or other regulations made under authority conferred thereby, the Village, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, to prevent any illegal act, conduct, business or use in or about such premises.

## **ARTICLE II TERMS**

### **Sec. 25-20. Word Usage.**

A. *Tense and Form.* Words used or defined in one tense or form shall include other tenses and derivative forms.

B. *Number.* Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.

C. *Gender.* The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.

D. *Shall and May.* The word "shall" is mandatory. The word "may" is permissive.

E. *Time.* The time within which any act required by this Code is to be performed shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the Village, in which event it shall also be excluded.

F. *Person.* The word "person" includes individuals, firms, partnerships, joint ventures, trusts, trustees, estates, corporations, associations, and any other similar entities.

G. *Used For.* The phrase "used for" shall include intended for, designed for, occupied for, maintained for, and arranged to be used or occupied for whenever that interpretation would result in the regulation being more restrictive in its application to any use or structure.

H. *Village.* The word "Village" means the Village of Evergreen Park, Illinois.

I. *County.* The word "county" and the phrase "Cook County" mean the County of Cook, Illinois.

J. *Undefined Terms.* Any word not defined in this Code shall have the meaning given in any applicable Village Code or ordinance or, if none, in Webster's New International Dictionary, Second Edition 1975, except for words employed to refer to the permitted uses and special uses of this Code, which shall be interpreted, insofar as applicable, in accordance with the meaning established in the

Standard Industrial Classification Manual, as amended through the effective date of this Code.

K. *Captions, Illustrations, and Tables.* In case of any difference of meaning or implication between the text of this Code and any caption, illustration, or table, the text shall control.

## **Sec. 25-21. Definitions.**

When used in this Code, the following terms shall have the meanings herein ascribed to them:

*Accessory Use or Structure.* A use or structure that: (1) is subordinate in extent and purpose to, and serves, a principal use or structure; and (2) is customarily found as an incident to such principal use or structure; and (3) contributes to the comfort, convenience, or necessity of those occupying, working at, or being served by such principal use or structure; and (4) except as otherwise expressly authorized by the provisions of this Code, is located on the same zoning lot as such principal use or structure; and (5) is under the same ownership and control as such principal use or structure.

*Adult Book Store.* An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," or an establishment with a segment or section devoted to the sale or display of such material.

*Adult Entertainment Cabaret.* A public or private establishment which is licensed to serve food or alcoholic beverages, which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

*Adult Mini Motion Picture Theaters.* An enclosed building with a capacity for less than 50 persons used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation by patrons therein.

*Adult Motion Picture Theater.* An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation by patrons therein.

*Alley.* A public right-of-way that affords only a secondary means of vehicular access to abutting property.

*Area,* see "Building Area."

*Area, Gross.* The total land and water area included in a parcel that is the subject of an application filed pursuant to this Code, excluding only property located in public right-of-way or private easements of access or egress.

*Basement.* A portion of a structure located partly underground but having less than half its clear floor to ceiling height over more than half of its floor area below grade.

*Block.* A tract of land bounded by streets or by a combination of streets, public lands, railroad rights-of-way, waterways, or boundary lines of the Village.

*Board of Appeals.* The Zoning Board of Appeals of the Village.

*Board of Trustees.* The Mayor and the Board of Trustees of the Village.

*Building.* Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property.

*Building Coverage.* The percentage of a lot's area covered by any building or structure, including

without limitation all areas underneath a roof.

*Building Depth.* The longest straight line that can be drawn through a structure substantially parallel to the side or corner side lot lines of the lot on which it is located.

*Building, Detached.* A building surrounded entirely by open space.

*Building, Principal.* A building in which is conducted the principal use of the lot on which said building is situated.

*Building Width.* The longest straight line that can be drawn through a structure parallel to the front lot line.

*Business Use or Purpose.* Any use permitted in a commercial district.

*Chapter.* The Evergreen Park Zoning Code.

*Code.* The Evergreen Park Zoning Code.

*Commercial Uses,* see "Business Use."

*Community Residence.* A group home or specialized residential care home serving unrelated persons with disabilities living in a family-like setting and constituting a single housekeeping unit. Community residence does not include a residence which serves persons as an alternative to incarceration for a criminal offense, or persons whose primary reason for placement is substance or alcohol abuse or for treatment of a communicable disease.

*Community Residence-Small.* A community residence serving 8 or fewer persons with disabilities in a family-like atmosphere.

*Community Residence-Large.* A community residence serving 9 to 15 persons with disabilities.

*Corner Lot.* A lot abutting upon two or more streets at their intersection or junction or a lot bounded on two sides by a curving street where it is possible to draw two intersecting tangents, one each commencing at each of the two points of intersection of the lot lines and street line, which intersect with each other to form an interior angle of less than 135 degrees.

*Depth of Lot.* The mean horizontal distance between the front and rear lot lines.

*Depth of Rear Yard.* The mean horizontal distance between the rear line of the building and the centerline of the alley, where an alley exists, otherwise the rear lot line.

*Development.* Any man-made change, other than maintenance of existing structures, paved areas or utilities, to improved or unimproved real estate, including, without limitation, the construction or installation of new, or enlargement of existing, structures, streets, or utilities; dredging, filling, drilling, mining, grading, paving, or excavating operations; and open storage of materials.

*District.* One or more sections of the Village for which the regulations governing the height, area, and use of building and premises are the same.

*Driveway.* A private access way that provides direct access from a street to not more than one lot or one principal building or use.

*Dwelling, Single Family Attached.* A dwelling composed of a row of two or more adjoining dwelling units, each situated on a separate subdivision lot or being a separate condominium unit capable of individual sale, and each of which is separated from the others by one or more unpierced walls extending from ground to roof, and each of which is provided with garage space sufficient for at least two vehicles.

*Dwelling, Single Family Detached.* A dwelling containing only one dwelling unit, situated on a separate subdivision lot or being a separate condominium unit capable of individual sale and completely surrounded by open space.

***Dwelling, Multiple Family.*** A dwelling, other than a single family attached dwelling, containing two or more dwelling units.

***Dwelling Unit.*** Any room or group of rooms located within a dwelling forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking, eating, and sanitation by one family.

***Family.*** Either one or more persons occupying a premises and living as a single housekeeping unit, and related to each other by birth, adoption or marriage, and including domestic servants as distinguished from a group occupying a boardinghouse, lodginghouse or hotel as defined in this section or, for the purpose of community residences, the persons living together may be unrelated.

***Fence.*** A barrier structure used as a boundary or as a means of protection, confinement, or screening.

***Floor Area, Gross.*** The sum of the gross horizontal areas of all floors of a building measured from the exterior face of the exterior walls, but not including any floor with a ceiling height of less than 7 feet and cellar floors.

***Floor Area, Net.*** The gross floor area of a building minus floor space devoted to washrooms; elevator shafts and stairwells at each floor; floor space and shafts used for mechanical, electrical, and plumbing equipment; floor space devoted to off-street parking and loading; and basement, attic, and floor space used only for storage and which is inaccessible to the public.

***Floor Area Ratio.*** The gross floor area of a building divided by the total lot area of the zoning lot on which it is located.

***Garage.*** A structure, or part thereof, designed or used for the parking and storage of vehicles at one or more levels.

***Height of Building.*** The vertical measurement taken from the mean level of the ground around the building to the highest point of the roof, for flat roofs and mansard roofs; and to a point halfway between the ridge level and the line where the main wall-face and the roof slant meet, for hip, gable or gambrel roofs.

***Home Occupation.*** Any occupation of profession, practiced by a member of the family residing on the premises, and which occupation is clearly incidental and secondary to the residential use of the dwelling; and in connection with which there is no indication from the exterior, other than one unanimated, nonilluminated sign of not more than one square foot in size, that the building is being utilized in whole or in part for any purpose other than that of a dwelling. No commodity is sold upon the premises and no commodity intended for sale or use elsewhere is stored on the premises; no more than one person is employed other than members of the family residing on the premises; and no mechanical or electrical equipment is used except for telephones, calculators, typewriters and computers. A professional person may use his residence for consultation, emergency treatment or performance of religious rites. No accessory building shall be used for such home occupation. Home occupations, further, shall not utilize more than 25 percent of the total floor area of any one story. No vehicle used in conjunction with the home occupation may be parked on the premises, based at the premises, or parked on the public street in the area of the premises, except for one passenger car designed for carrying not more than 6 persons.

***Intensity of Use of Lot.*** That portion of the area of a lot which is occupied by or which may be occupied by or which may be occupied under this Code by building and accessory buildings.

***Line of Building.*** The boundary of any side of the building, excluding only open porches not exceeding one story in height and glazed porches whose roof line is not higher than 3 feet above the second floor level, or whose area projected over the building lines does not exceed 200 square feet; steps and terraces at or below the first floor level; balconies, canopies or cornices projecting not more than 3-1/2 feet beyond the wall of the building.

***Lot.*** See "Lot of Record" and "Lot, Zoning". Unless the context indicates otherwise, all references



in this Code to a "lot" shall be deemed to mean a "zoning lot".

*Lot Area.* Only area within the lot lines shall be considered a part of a lot, and streets and alleys are excluded in determining the dimensions of a lot except where otherwise specifically stated.

*Lot Corner.* A lot abutting upon two or more streets at their intersection or junction or a lot bounded on two sides by a curving street where it is possible to draw two intersecting tangents, one each commencing at each of the two points of intersection of the lot lines and street line, which intersect with each other to form an interior angle of less than 135 degrees.

*Lot Depth.* The mean horizontal distance between the front and rear lot lines.

*Lot Interior.* A lot other than a corner lot.

*Lot Lines.* The property lines bounding a lot.

*Lot Line, Corner Side.* Any street line of a corner lot other than its front lot line.

*Lot Line, Front.* In the case of an interior lot abutting upon only one street, the line separating such lot from such street; in the case of a through lot, each line separating such lot from a street shall be considered a front lot line; in the case of a corner lot, the shorter lot line separating such lot from a street shall be considered to be the front lot line.

*Lot Line, Rear.* That lot line that is parallel to and most distant from the front lot line of the lot; provided, however, that in any case where no lot line of at least 20 feet in length is parallel to the front lot line, an imaginary line 20 feet in length, entirely within the lot, parallel to, and at the maximum possible distance from, the front lot line shall be considered to be the rear lot line.

*Lot Line, Side.* Any lot line other than a front, corner-side, or rear lot line.

*Lot of Record.* A lot that is part of a subdivision, the properly approved plat of which has been recorded in the office of the Recorder of Deeds or Registrar of Titles of Cook County, Illinois, or a parcel of land separately described in a recorded deed. A tax divided parcel is not a lot of record.

*Lot, Width of.* The shortest horizontal distance between side lot lines measured by a line passing through the point of the required front yard line equidistant from the points where the front yard line intersects the side yard lines (measured along the front yard line); provided, however, that the length of the front lot line shall not be less than 80 percent of the required minimum lot width.

*Lot, Zoning.* A tract of land consisting of one or more lots of record under single fee title ownership located entirely within a block and occupied by, or designated by its owner or developer at the time of filing for any zoning approval or building permit as a tract to be developed for, a principal building and its accessory buildings, or a principal use, together with such open spaces and yards as are designed and arranged, or required under this Code, to be used with such building or use. Notwithstanding the foregoing, sale of individual lots of record underlying individual dwelling units in an attached or two-family dwelling, following issuance of a Certificate of Occupancy for such dwelling, shall not prevent treatment of the tract of land underlying such dwelling as a zoning lot and all applicable bulk, space, and yard requirements shall be applied with respect to such dwelling and such zoning lot rather than with respect to individually-owned dwelling units and lots of record.

*Medical Cannabis Cultivation Center.* A facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis per the Compassionate Use of Medical Cannabis Pilot Program Act, enacted by the State of Illinois, as may be amended from time to time.

*Medical Cannabis Dispensing Organization.* A facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients, per the Compassionate Use of

Medical Cannabis Pilot Program Act, enacted by the State of Illinois, as may be amended from time to time.

*Medical Cannabis Facilities.* Both Medical Cannabis Cultivation Centers and Medical Cannabis Dispensing Organizations.

*Nonconforming Lot of Record.* A lot of record that does not comply with the lot requirements for any permitted use in the district in which it is located.

*Nonconforming Lot of Record, Legal.* A nonconforming lot of record that: (a) was created by a plat or deed recorded at a time when, and came into ownership separate from adjoining tracts of land at a time when, the creation of a lot of such size, shape, depth, and width at such location would not have been prohibited by any ordinance or other regulation; and (b) has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such a lot has been prohibited by any applicable ordinance or other regulation.

*Nonconforming Structure.* Any building or structure lawfully existing on the effective date of this Code, or any amendment to it rendering such building or structure nonconforming, that: (a) does not comply with all of the regulations of this Code, or any such amendment thereto, governing parking, loading, or bulk and space requirements for the zoning district in which such building or structure is located; or (b) is located on a lot that does not, or is so located on a lot as not to, comply with the yard or setback requirements for the zoning district in which such building or structure is located; or (c) both (a) and (b); except (d) any building containing more than one dwelling unit in addition to the number permitted by the district regulations in the district where it is located shall be deemed to be a nonconforming use rather than a nonconforming structure.

*Nonconforming Use.* Any use lawfully being made of any land, building or structure, other than a sign, on the effective date of this Code, or any amendment to it rendering such use nonconforming, that does not comply with all of the regulations of this Code, or any such amendment hereto, governing use for the zoning district in which such land, building or structure is located.

*Person With a Disability.* Any individual whose disability:

- A. Is attributable to mental, intellectual or physical impairments or a combination of mental, intellectual or physical impairments;
- B. Is likely to continue for a significant amount of time or indefinitely;
- C. Results in functional limitations in 3 or more of the following areas of major life activities:
  1. Self care;
  2. Receptive or expressive language;
  3. Learning;
  4. Mobility;
  5. Self direction;
  6. Capacity for independent living; and
  7. Economic self-sufficiency.
- D. Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration.

*Principal Structure or Building.* A structure or building on a zoning lot intended to be utilized for a principal use and to which any other structure on such lot must be accessory.

*Principal Use.* The use of a zoning lot, whether a permitted or specifically permitted use, designated by the owner of such lot as the primary or main use of such lot and to which any other use

on such lot must be accessory.

**Residential Structure.** A structure containing one or more dwelling units.

**Setback.** The distance between the front lot line and the building line.

**Sign.** Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.

**Specified Sexual Activities.** Is defined as:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse or sodomy;
- C. Fondling or other erotic touching of human genitals, pubic regions, buttock or female breast.

**Specified Anatomical Area.** Is defined as:

- A. Less than completely and opaquely covered:
  1. human genitals, pubic region;
  2. buttock, and
  3. female breast below a point immediately above the top of the areola;
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**Staff.** Paid professional support staff provided by a sponsoring agency for a community residence, either living with the residents on a 24-hour full-time basis or non-live-in on a 24-hour shift basis or present whenever residents with disabilities are present at the dwelling. Staff personnel are not to be included in counting the number of disabled persons permitted in a residential zoning district.

**Story.** Except as otherwise specifically provided in this Code, that portion of a building included between the surface on any floor and the surface of the floor next above it, or if, there is no floor above, then the space between the floor and the ceiling next above it. The floor of a story may split levels provided that there is not more than four feet difference in elevation between the different levels of the floor. When the floor area of the upper-most story that has a floor-to-ceiling height of less than seven feet is more than 50 percent of the gross floor area of the story next below it, such upper-most story shall be counted as one-half story. A basement shall be counted as one-half story; a cellar shall not be counted as a story. Any area in which the distance from one floor to the floor or ceiling above it is more than 16 feet shall be deemed to consist of one story for each 16 feet of height or major fraction thereof.

**Street.** A thoroughfare furnishing principal means of access to abutting property, used for public foot and vehicle traffic, other than an alley.

**Street line.** The dividing line between a street and the lot. The front street line shall be deemed to be the shortest street line.

**Street Wall.** A main wall nearest to and facing on a street including sun parlors but not including bay windows that do not constitute more than one-third of the width of the frontage of the building, and not including ground story porches and piazzas that are not closed in.

**Structural Alterations.** Any change, other than incidental repairs, that would prolong the life of the supporting members of a structure such as bearing walls, columns, beams, girders, or foundations or that would alter the dimensions or configurations of the roof or exterior walls of a structure or that would increase either the gross or net floor area of a structure.

*Structure.* Anything constructed or erected, the use of which requires more or less permanent location on the ground, or anything attached to something having a permanent location of the ground, but not including paving or surfacing of the ground. References to "structure" shall in all cases be deemed to refer to both structures and buildings.

*Transitional Service Facility.* An authorized and licensed dwelling operated by a public or private agency duly authorized and licensed by any state agency having authority to license and approve said facility that houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in the community and that provides continuous professional guidance.

*Use.* The purpose of activity for which a structure or land is designed, arranged, or intended, or for which it is occupied or maintained.

*Use, Permitted.* A use that appears on the permitted use list of a particular zoning district.

*Yard.* A required open space on a lot between a lot line and a yard line that is, except as otherwise expressly authorized by this Code, unoccupied and unobstructed from grade to the sky.

*Yard, Corner Side.* A yard extending from the front yard line to the rear yard line between the corner side lot line of the lot and the corner side yard line.

*Yard, Front.* A yard extending across the entire front of a lot between the front lot line of the lot and the front yard line.

*Yard, Rear.* A yard extending across the entire rear of a lot between the rear lot line of the lot and rear yard line.

*Yard, Required.* The minimum yard depth designated in the regulations of this Code establishing minimum front, corner side, side, and rear yard requirements for various uses, structures, and districts.

*Yard, Side.* A yard extending along a side lot line from the front yard to the rear yard between the side lot line and the side yard line.

*Yard Line, Corner Side.* A line drawn parallel to a corner side lot line at a distance therefrom equal to the depth of the required corner side yard.

*Yard Line, Front.* A line drawn parallel to a front lot line at a distance therefrom equal to the depth of the required front yard.

*Yard Line, Rear.* A line drawn parallel to a rear lot line at a distance therefrom equal to the depth of the required rear yard.

*Yard Line, Side.* A line drawn parallel to a side lot line at a distance therefrom equal to the depth of the required side yard.

(Am. Ord. No. 4-2014 § 1, 2-3-14)

## ARTICLE III ADMINISTRATION

### Sec. 25-30. Board of Trustees.

A. *Jurisdiction.* The Board of Trustees reserves to itself the final power to determine and approve all zoning applications, including zoning amendments, rezonings, map amendments, amendments to

the Code, variations, special uses, and planned developments.

B. *Public Hearings.* The Board of Trustees reserves the right to designate another body, including itself, to hear and conduct any public hearing on a zoning application.

C. *Application.* The Board of Trustees has the right to make a zoning application with regard to any specific property within the Village and with regard to any zoning amendments, rezonings, map amendments, amendments to the Code, variations, special uses, and planned developments.

D. *Requirements.* The requirements of this Code shall not apply to any zoning application made by the Village.

E. *Ordinance Approval.* In the event that the Board of Trustees passes an ordinance approving a zoning application, such passage shall be conclusive evidence that all procedural requirements and findings required by this Code have been met, except with regard to published notice.

## **Sec. 25-31. Zoning Board of Appeals.**

A. *Creation; Membership.* The Zoning Board of Appeals shall consist of seven members appointed by the Mayor with the advice and consent of the Board of Trustees. The members shall serve for one-year terms and until their successors have been appointed and qualified.

B. *Chairman.* The Mayor, with the advice and consent of the Board of Trustees, shall name one member of the Zoning Board of Appeals as Chairman, to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the Chairman, a Temporary Chairman elected by the Board of Appeals shall act as Chairman and shall have all the powers of the Chairman.

C. *Secretary and Minutes.* The Mayor shall name a Secretary to the Zoning Board of Appeals. The Secretary shall provide for the keeping of minutes of the proceedings of the Zoning Board of Appeals, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall maintain permanent records of all Zoning Board of Appeals meetings, hearings, and proceedings and all correspondence of the Zoning Board of Appeals.

D. *Quorum and Necessary Vote.* No business shall be transacted by the Zoning Board of Appeals without a quorum, consisting of four members, being present. The concurring vote of at least four members of the Zoning Board of Appeals shall be necessary to pass any motion in favor of the applicant. Any lesser vote on any such motion, even if a majority of those voting, shall be considered a final decision denying the application. If less than a quorum is present, the hearing may be adjourned from time to time.

E. *Absent Members.* No member absent from any portion of a hearing shall be qualified to vote upon the matter heard unless that member shall first certify on the record that he has reviewed the entire record of any such portion of the hearing during which he was absent and has fully informed himself of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

F. *Meetings; Hearings; Procedures.* Regular meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or as provided by rule of the Zoning Board of Appeals. Special meetings shall be called at the request of the Chairman or of any two members of the Zoning Board of Appeals or of the Board of Trustees. All testimony at any hearing of the Zoning Board of Appeals shall be given under oath. The Zoning Board of Appeals shall adopt its own rules of procedure for the conduct of its business. Any rule so adopted that relates solely to the conduct of the Zoning Board of Appeal's hearing and that is not mandated by this Code may be waived by the Chairman.

G. *Record.* The transcript of testimony, if any; the minutes of the Secretary; all applications, requests, exhibits, and papers filed in any proceeding before the Zoning Board of Appeals; and the decision of the Zoning Board of Appeals shall constitute the record. The Zoning Board of Appeals

may rely on the personal knowledge of its members, on its inspections of the property, and on any reports available to it; provided, however, that reliance on any specific factual matter or report shall be made a matter of record at the public hearing and every party shall be afforded reasonable time to respond to it.

H. *Decisions.* Every recommendation or decision of the Zoning Board of Appeals shall be set forth in its minutes and may include findings of fact; may refer to all the evidence in the record and to the exhibits, plans, or specifications upon which such recommendation or decision is based; may specify the reason or reasons for such recommendation or decision; may contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief or setting forth the recommendation of the Zoning Board of Appeals; and may expressly set forth any limitations or conditions recommended or imposed on any relief granted or recommended or work or uses authorized.

In any case where this Code provides that the failure of the Zoning Board of Appeals to act shall be deemed a recommendation for grant or denial of an application, such failure shall be considered to be a decision of the Zoning Board of Appeals rendered on the day following the expiration of such fixed period, notwithstanding the absence of required findings and conclusions.

I. *Conflicts.* No member of the Zoning Board of Appeals shall participate in the hearing or disposition of any matter in which that member has a property or pecuniary interest.

J. *Appeals.* An appeal from any final decision of the Zoning Board of Appeals may be taken in the manner provided in Article III of the Illinois Code of Civil Procedure pertaining to administrative review.

K. *Jurisdiction and Authority.* The Zoning Board of Appeals shall have the following jurisdiction and authority:

1. To hear and decide appeals from, and to review orders, decisions, or determinations made by the Building Commissioner and to that end have the power of the Building Commissioner with respect to such order, decision, or determination.

2. To hear, review, and offer its recommendations to the Board of Trustees on applications for variations from the requirements of this Code.

3. To prepare and recommend a comprehensive plan, including an official map, to the Board of Trustees, which, upon its adoption by the Board of Trustees, shall be known as the "Official Comprehensive Plan" of the Village.

4. To review, prepare, and recommend to the Board of Trustees changes in and amendments to the Official Plan, including the official map.

5. To initiate, hear, review, and offer its recommendations to the Board of Trustees on applications for amendments to this Code.

6. To hear, review, and offer its recommendations to the Board of Trustees on applications for special use permits.

7. To hear, review, and offer its recommendations to the Board of Trustees on applications for planned development approval.

8. To hear, review, and offer its recommendations to the Board of Trustees on applications for, or appeals from the Building Commissioner denial of, Site Plan approval made to the Board of Trustees.

## **Sec. 25-32. Enforcement Officer.**

The Building Commissioner shall be charged with and responsible for the enforcement and interpretation of the provisions of this Code.

### **Sec. 25-33. Site Plan Approval.**

A. *Authority.* Pursuant to the provisions of this Code, the Building Commissioner, as a matter of original jurisdiction and in accordance with the procedures and standards set out in this Section, may grant site plan approval to uses and developments requiring such approval.

B. *Purpose.* The site plan approval process recognizes that even those uses and developments that have been determined to be generally suitable for location in a particular district are capable of adversely affecting the purposes for which this Code was enacted unless careful consideration is given to critical design elements. It is the purpose of this Section to provide a vehicle for the review of the developer's attention to such elements.

C. *Site Plan Approval Required.* Site plan approval by the Building Commissioner in accordance with this Section shall be required in connection with the following development:

1. Any residential or commercial development or redevelopment, other than for one single family detached dwelling unit, or any addition, expansion, or accessory building in conjunction therewith.
2. Any residential or commercial development or redevelopment involving an existing structure, other than one which does not change the outside walls of the structure and other than for one single family detached dwelling unit.
3. Any residential or commercial development or redevelopment involving the creation or expansion of a parking lot or loading zone.

D. *Procedure.*

1. *Preapplication Conference.*

(a) *Request.* In any case where site plan approval is required, the applicant may by letter request a preapplication conference, prior to filing his application, with the Building Commissioner.

(b) *Required Information.* Such request shall include a brief and general description of the nature, location, and extent of the proposed project and a list of any professional consultants advising the prospective applicant with respect to the proposed project.

(c) *Procedure.* Upon receipt of such request, the Building Commissioner shall promptly schedule such conference and notify the applicant and appropriate staff members of the time and place of such conference and of the names and attend. The Building Commissioner or his designee shall conduct such conference, and its purpose shall be to broadly acquaint all other parties with the proposals, views, and concerns of all other parties at a time when positions are still flexible and adjustment is still possible.

2. *Building Commissioner Approvals.*

(a) *Action by Building Commissioner.* Within 21 days after receipt by the Building Commissioner of a properly completed application, including all information and changes requested, the Building Commissioner shall cause such application and the attached site plan to be reviewed, in terms of the standards established by this Section. He then shall either: (i) approve the site plan as submitted; or (ii) on the basis of written findings in accordance with this Section, approve it subject to specific modifications; or (iii) on the basis of such findings, deny approval of the site plan.

Immediately upon concluding review, the Building Commissioner shall return one copy of the site plan to the applicant marked to show either approval, approval subject to modifications which modifications shall be clearly and permanently marked on such plans, or denial of approval. The Building

Commissioner shall maintain a similarly marked set of such plans for any further processing that may be required. The failure of the Building Commissioner to act within such 21 days, or such further time to which the applicant may agree, shall be deemed to be a decision approving the site plan as submitted.

(b) *Effect of Building Commissioner's Action.* The action of the Building Commissioner in approving a site plan or in approving a site plan subject to modifications that are acceptable to the applicant shall constitute a final administrative action and shall not be subject to further review or appeal. The action of the Building Commissioner in denying an application for Site Plan Approval or in approving a site plan subject to modifications that are not acceptable to the applicant (which action the applicant may treat as a denial) shall not be considered final action by the Village but shall only be authorization for the applicant to seek approval of the site plan from the Zoning Board of Appeals by way of the appeal procedure set forth below.

(c) *Appeals.* Within 45 days after a denial of Site Plan approval by the Building Commissioner, the applicant may seek approval of the site plan by filing an application for appeal to the Zoning Board of Appeals.

### 3. *Zoning Board of Appeals Approvals.*

(a) *Action by Building Commissioner in Appeal Cases.* Upon receipt of a properly completed application for an appeal of a denial of site plan approval by the Building Commissioner, he shall forthwith transmit to the Zoning Board of Appeals the application for appeal, the original application for site plan approval, all papers constituting the record upon which the Building Commissioner's denial was based, and a copy of the Building Commissioner's decision denying the application for Site Plan approval.

(b) *Public Hearing.* A public hearing and formal notice is not required by the Zoning Board of Appeals although its actions must be taken at a public meeting.

(c) *Action by Zoning Board of Appeals.* Within 35 days after the conclusion of the public meeting, the Zoning Board of Appeals shall approve the site plan as submitted, or shall make modifications acceptable to the applicant and approve such modified site plan, or shall disapprove it in the manner hereinafter specified. The failure of the Zoning Board of Appeals to act within such 35 days, or such further time to which the applicant may agree, shall be deemed to be a decision denying site plan approval.

### E. *Standards for Site Plan Disapproval.*

1. *Standards.* Neither the Building Commissioner nor the Zoning Board of Appeals shall disapprove a site plan submitted pursuant to this Section except on the basis of specific written findings directed to one or more of the following standards:

(a) The application is incomplete in specified particulars or contains or reveals violations of this Code or other applicable regulations that the applicant, after written request, has failed or refused to supply or correct.

(b) The application is submitted in connection with another application, the approval of which is a condition precedent to the necessity for site plan review, and the applicant has failed to secure approval of that application.

(c) The site plan fails to adequately meet specified standards required by this Code with respect to the proposed use or development, including special use standards where applicable.

(d) The proposed site plan interferes with easements or rights-of-way.

(e) The proposed site plan unreasonably destroys, damages, detrimentally modifies, or interferes with the enjoyment of significant natural, topographical, or physical features of the site.

(f) The proposed site plan is unreasonably injurious or detrimental to the use and enjoyment of



surrounding property.

(g) The proposed site plan creates undue traffic congestion or hazard; in the public streets, or the circulation elements of the proposed site plan unreasonably create hazards to safety on or off site or disjointed, inefficient pedestrian or vehicular circulation paths on or off site.

(h) The screening of the site does not provide adequate shielding from or for nearby uses.

(i) The proposed structures or landscaping are unreasonably lacking amenity in relation to, or are incompatible with, nearby structures and uses.

(j) In the case of site plans submitted in connection with an application for a special permit, the proposed site plan makes inadequate provision for the creation or preservation of open space or for its continued maintenance.

(k) The proposed site plan creates unreasonable drainage or erosion problems or fails to fully and satisfactorily integrate the site into the overall existing and planned drainage system serving the Village.

(l) The proposed site plan places unwarranted or unreasonable burdens on specified utility systems serving the site or area or fails to fully and satisfactorily integrate the site's utilities into the overall existing and planned utility systems serving the Village.

(m) The proposed site plan otherwise adversely affects the public health, safety, or general welfare.

2. *Alternative Approaches.* In citing any of the foregoing standards, other than those of Subparagraphs 1(a) and 1(b), as the basis for disapproving a site plan, the Zoning Board of Appeals shall suggest alternate site plan approaches that could be developed to avoid the specified deficiency or shall state the reasons why such deficiency cannot be avoided consistent with the applicant's objectives.

F. *Effect of Site Plan Approval.* Approval of a site plan shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the codes and ordinances of the Village.

A copy of every approved site plan shall be filed with the Building Commissioner and the development of the site shall be in substantial conformity with such approved and filed plan.

G. *Limitations on Site Plan Approval.* Subject to an extension of time granted by the Building Commissioner, no site plan approval shall be valid for a period longer than one year unless a Building Permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Zoning Compliance is issued and a use commenced within that period.

H. *Adjustments to Site Plan During Development.* During the development of the site, the Building Commissioner may authorize minor adjustments to a site plan originally approved by him or the Zoning Board of Appeals when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development.

## **Sec. 25-34. Certificate of Zoning Compliance.**

A. *Authority.* The Building Commissioner shall have authority to issue Certificates of Zoning Compliance; provided, however, that no such certificate shall be issued except in accordance with the provisions of this Section and the provisions of the Building Code and Fire Code.

B. *Purpose.* For the purposes of this Code, the Certificate of Zoning Compliance provides a

procedure for the inspection of completed premises to ensure their compliance with this Code and approved plans prior to commencement of the use or occupancy of such premises. The certificate may also evidence compliance with other provisions of the Evergreen Park Municipal Code as set forth in those provisions. It is intended that the Certificate of Zoning Compliance shall be issued in conjunction with a Certificate of Occupancy pursuant to the Evergreen Park Building Code when such a Certificate of Occupancy is required thereby.

C. *Certificate Required.* Unless a Certificate of Zoning Compliance shall have first been obtained certifying compliance with the provisions of this Code:

1. No structure, or addition thereto, constructed, reconstructed, remodeled, altered, or moved after the effective date of this Code shall be occupied or used for any purpose; and
2. No land vacant as of the effective date of this Code shall be used or occupied for any purpose; and
3. Except for changes involving only substitution of occupants in existing dwelling units, no use or occupancy of any land or structure shall be changed to any other use or occupancy when such change involves construction, remodeling, alteration, or moving, and
4. No home occupation shall be established or maintained.

D. *Procedure.*

1. *Application.* Applications for Certificates of Zoning Compliance shall be filed with the Building Commissioner on forms supplied by the Village and shall be accompanied by an application fee of \$100.00. In any case where the structure or use involved has been constructed or established pursuant to any approval granted pursuant to this Code, the application shall be accompanied by "as built" plans depicting the structure or use as built and bearing the certificate of a surveyor, engineer, architect, land planner, or owner-designer, as may be appropriate, certifying that the structure or use as built conforms in all respects to the approval granted.

2. *Action on Application.* Within 10 days after the receipt of a completed application, the Building Commissioner shall cause the subject structure or premises to be inspected and shall take one of the following actions based on such inspection:

(a) If all work has been completed and the structure and use thereof are in full and complete compliance with all applicable provisions of this Code, other relevant codes and ordinances of the Village, the applicant's plans as approved, and any conditions attached to any approval issued pursuant to this Code, the Building Commissioner shall issue a Certificate of Zoning Compliance.

(b) If, however, all work is not complete or is in any manner not in full compliance with all applicable requirements, the Building Commissioner shall deny the application and shall inform the applicant in writing of the specific deficiencies on which such denial is based, citing the particular provisions of the codes and ordinances of the Village, the particular items in the applicant's plans or the applicable special approval conditions with respect to which compliance is lacking.

3. *Contents of Certificate.* In addition to the matters required to be contained in a Certificate of Zoning Compliance pursuant to other applicable provisions of the Evergreen Park Municipal Code, each Certificate of Zoning Compliance issued pursuant to this Section shall state the specific use of the subject property for which it is issued, shall identify the specific plans, if any, pursuant to which it is issued, and shall set forth any conditions imposed in connection with any approval granted pursuant to this Code.

4. *Filing of Certificates.* Every Certificate of Zoning Compliance issued pursuant to this Section shall be kept on file in the Office of the Building Commissioner.

E. *Temporary Certificate of Zoning Compliance.* Notwithstanding the provisions of Paragraph D2 of this Section, when construction, reconstruction, or alteration of a structure does not require the vacating of the structure, or when parts of the structure are finished and ready for occupancy before

the completion of such construction, reconstruction, remodeling, or alteration and are certified upon inspection to be safe for use or occupancy and to be in full compliance with all applicable provisions of this Code, other relevant codes and ordinances of the Village, the applicant's plans as approved and any conditions attached to any approvals issued pursuant to this Code with respect to such structure or its premises, a Temporary Certificate of Zoning Compliance may be issued for a period not to exceed six months from its date, which Temporary Certificate shall bear on its face, in bold type, a statement of its temporary nature; provided, however, that no such Temporary Certificate shall be issued pursuant to this Code unless said structure also qualifies for a Temporary Certificate of Zoning Compliance issued pursuant to the Evergreen Park Building Code.

F. *Certificate of Zoning Compliance for Existing Uses.* The Building Commissioner may issue a Certificate of Zoning Compliance certifying the lawful existence and use of any existing structure or use in the same manner, and subject to the same standards and limitations, as authorized by this Section with respect to new structures and uses. Such Certificate of Zoning Compliance shall be prima facie evidence of the facts contained in it with respect to any structure or use as of the date of its issue and remain effective for that purpose for so long as neither the use or structure nor the applicable provisions of this Code are changed.

G. *Certificate of Zoning Compliance for Legal Nonconformities.* The Building Commissioner may issue a Certificate of Zoning Compliance certifying the lawful existence and use of any nonconforming use, structure or lot in the same manner, and subject to the same standards and limitations, as authorized by this Section with respect to new structures and uses.

H. *Void Certificates.* Any Certificate of Zoning Compliance issued in violation of the provisions of this Code, whether intentionally, negligently, or innocently, shall be void ab initio and shall give rise to no rights whatsoever.

### **Sec. 25-35. Administrative Deviations in Residential Districts.**

The Building Commissioner, with the consent of the Mayor, shall have the authority to grant an administrative deviation, without any public hearing or without any public notice, as follows:

- A. Decrease side yard setback requirements and rear yard setback requirements by not more than 1 foot on each side yard and the rear yard for any accessory structure.
- B. Decrease side yard setback requirements by not more than 1 foot on each side yard for the principal structure.
- C. Decrease rear yard setback requirements by not more than 5 feet for the principal structure.
- D. Decrease front yard setback requirements by not more than 5 feet for the principal structure.
- E. Decrease lot width requirements by not more than 2.5 feet provided that any new residence shall be constructed with an attached 2-car garage, except that a detached 2-car garage accessible only from a dedicated alley may be permitted. A residence with a side drive is not permitted.
- F. Decrease lot coverage requirements to not more than 45% of the lot area.
- G. Payment of \$750 administrative processing fee.

## **ARTICLE IV ZONING APPLICATIONS, HEARINGS, AND APPROVALS**

### **Sec. 25-40. Applications.**

A. *Place of Filing.* All applications shall be filed with the Village Clerk except that applications requiring action by the Building Commissioner shall be filed with him.

B. *Form; Number; Scale.* All applications filed pursuant to this Code shall be on forms supplied by the Village and shall be filed in such number as determined necessary in order to provide copies thereof to the Village. All plans filed as part of any application shall be at a scale sufficient to permit a clear and precise understanding of the contents of said plans.

C. *Fees.*

1. *Fee Established; Lien.* Every application filed pursuant to this Code shall be subject to a minimum application fee as established from time to time by the Board of Trustees to recover the actual costs, as hereinafter defined, incurred by the Village in processing such application. In the event that the actual costs exceed the minimum application fee, the balance shall be due within 10 days after billing by the Village. The owner of the property subject of the application and, if different, the applicant shall be jointly and severally liable for the payment of said fee. By signing the application, the owner shall be deemed to have agreed to pay such fee and to consent to the filing and foreclosure of a lien on the subject property to ensure collection of any such fee, plus the costs of collection, which has not been paid within 30 days following the mailing of a written demand for such payment to the owner at the address shown on the application. Any lien filed pursuant to this Subsection may be foreclosed in the manner provided by statute for mortgages or mechanics liens.

2. *Recoverable Costs.* For purposes of establishing the application fee, the actual costs incurred by the Village in processing an application shall be deemed to consist of the following items of direct and indirect expense:

- (a) Legal Publication and posted sign (direct cost);
- (b) Recording Secretarial Services (direct cost);
- (c) Court Reporter (direct cost);
- (d) Administrative Review and Preparation (hourly salary);
- (e) Document Preparation and Review (hourly salary);
- (f) Professional and Technical Consultant Services (direct cost);
- (g) Legal Review, Consultation, and Advice (direct cost);
- (h) Copy Reproduction (direct cost); and
- (i) Document Recordation (direct cost).

3. *Condition of all Applications, Approvals, and Permits; Time Periods.* No application filed pursuant to this Code shall be considered complete unless and until all fees and deposits due pursuant to this Subsection have been paid. Every approval granted and every permit issued pursuant to this Code, whether or not expressly so conditioned, shall be deemed to be conditioned upon payment of fees as required by this Subsection.

When this Code provides that the passage of time without decision or action shall be deemed an approval or a recommendation for approval, all time periods shall be tolled during any period of nonpayment, but shall otherwise continue to run.

The failure to fully pay any such fee or deposit when due shall be grounds for refusing to process an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or deposit relates.

4. *Waiver.* The Board of Trustees may waive any or all of an application fee. No application fee shall apply to the Village or any elected official thereof.

D. *Minimum Data Requirements.* Every application submitted pursuant to this Code shall contain such information as is required by the Village from time to time.

E. *Special Data Requests.* Every applicant shall submit other and additional data, information, or documentation as the Building Commissioner or the Zoning Board of Appeals may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

F. *Waiver of Application Requirements.* The Building Commissioner and the Zoning Board of Appeals have the right to waive any documentation required by them or required in this code.

G. *Withdrawal of Application.* An applicant may withdraw an application at any time prior to a final decision having been rendered with respect thereto. Such withdrawal shall be without prejudice to the applicant's right to refile such application, but any such refiling shall be treated as an entirely new filing and shall be subject to the procedures and fees of this Code in the same manner as any other new application. No refund of any fees shall be made by reason of a withdrawn application.

## **Sec. 25-41. Public Hearings.**

A. *Setting Hearing.* When the provisions of this Code require a public hearing in connection with any application, the Zoning Board of Appeals shall fix the date for the public hearing.

B. *Notice.* The following provisions are applicable to public hearings conducted by the Zoning Board of Appeals:

1. *Village Clerk to Give Notice.* The Village Clerk shall cause notice to be given of public hearings in the form and manner and to the persons herein specified.

2. *Content of Notice.* All notices shall include the date, time and place of such hearing, a description of the matter to be heard or considered, the address or particular location of the subject property, and a legal description of the subject property where the application is not filed by the Village.

3. *Published Notice.* The Village shall give notice of every public hearing by publication not less than 15 nor more than 30 days in advance of the hearing date in a newspaper having general circulation within the Village.

4. *Mailed Notice.* The Village shall give notice of every public hearing by mail not less than 10 nor more than 30 days in advance of the hearing date to all persons listed on the Village water billing records for property located within 200 feet of the applicant's property.

5. *Posted Notice.* The Village may post a notice on the property indicating that a zoning application is pending with regard to any rezoning or subdivision. The applicant shall permit such posted notice and shall not remove the same.

6. *Village Applications.* The only notice required with regard to an application made by the Village is published notice.

7. *Improper Notice.* The failure to provide any notice, other than the published notice, shall not affect the jurisdiction or proceedings conducted on an application at a public hearing.

8. *Continued Public Hearing.* No notice of a continued public hearing or a matter referred back to the Zoning Board of Appeals by the Board of Trustees is required.

C. *Conduct of Hearings.*

1. *Rights of All Persons.* Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence; provided, however, that the hearing body may exclude irrelevant, immaterial, or unduly repetitious evidence.

2. *Adjournment of Hearing.* The body conducting the hearing may at any time, on its own motion or at the request of any person, adjourn the hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the hearing body may find to be sufficient.

3. *Testimony to be Sworn.* All testimony at any hearing shall be given under oath.

4. *Right to Submit Written Statements.* Any person may at any time prior to the commencement of a hearing hereunder, or during such hearing, or within such time as may be allowed by the hearing body following such hearing, submit written statements in support of or in opposition to the application being heard. Such statements shall be subscribed and sworn before an officer authorized to administer oaths and shall be made a part of the public record of the hearing.

## ARTICLE V ZONING DISTRICTS

### **Sec. 25-50. Establishment of Districts, Zoning Map.**

To carry out the purposes of this Code, the Village is hereby divided into the following zoning districts:

"A" Single Family Residential District.

"B" Multi-Family Residential District.

"C" Commercial District.

"I" Cemetery District.

"O" Open Space Recreation District.

The location and boundaries of the zoning districts established by this Code are as shown on the map entitled "Zoning Map of the Village of Evergreen Park" which is incorporated herein by reference. All notations, references, and other information shown on the Zoning Map, and all amendments thereto, shall be as much a part of this Code as if specifically set forth and literally described herein.

### **Sec. 25-51. District Boundaries.**

In the event that any uncertainty exists with respect to the intended boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

A. The district boundaries are the centerlines of highways, streets, alleys, waterways, railroads, and other rights-of-way unless otherwise indicated. When the designation of a boundary line on the Zoning Map coincides with the location of any such right-of-way, the centerline of such right-of-way shall be construed to be the boundary of such district.

B. When a district boundary does not coincide with the location of the centerline of any right-of-way but does coincide with a lot line, such lot line shall be construed to be the boundary of such district.

C. When a district boundary does not coincide with the location of the centerline of any right-of-way or lot line, the district boundary shall be determined by the use of the scale shown on the Zoning Map.

## **Sec. 25-52. "A" Single Family Residential District.**

A. *Permitted Uses.* The following uses and no others, are permitted as of right in the "A" Single Family Residential District.

1. Single-family detached dwellings.
2. Public libraries.
3. Public parks and recreational facilities.
4. Municipal-owned facilities.
5. Small community residences provided that they are located not less than 1,000 feet from another community residence.
6. One garage and one storage shed per zoning lot, and the storage shed must be located to the rear of the principal structure on the zoning lot.
7. Home occupations.

B. *Bulk, Yard and Space Requirements.* The following requirements apply to all uses in the "A" Single Family Residential District.

1. *Building Height.* The maximum height of any structure is 35 feet.
2. *Lot Area.* Each zoning lot shall contain not less than 4,400 square feet.
3. *Lot Width.* Each zoning lot shall have a lot width of not less than 40 feet measured at the front of the main building and the rear of the main building.
4. *Front Yard.* Each zoning lot shall have a front yard of not less than 25 feet except that the Building Commissioner may establish a front yard of not less than 20 feet in order to conform to the front yard of the main buildings on neighboring lots on the same side of the street between the nearest intersections.
5. *Rear Yard.* Each zoning lot shall have a rear yard of not less than 25 feet, except that the rear yard on a corner lot which abuts another rear yard or an alley shall be not less than 10 feet if there is no dedicated alley adjacent thereto and shall be not less than 3 feet if there is a dedicated alley adjacent thereto. An accessory building may be located within the rear yard but not less than 3 feet from the rear lot line, but an accessory building cannot be constructed in a public or private utility easement without permission of the easement holder.
6. *Side Yard.* Each zoning lot shall have 2 side yards each of which shall be 10% of the lot width but not less than 4 feet. The side yard on a corner lot shall be increased by the Building Commissioner to conform to the front yards and side yards of buildings on neighboring lots on the same side of the street between the nearest intersections. An accessory building may be located within an interior side yard but not less than 3 feet from the side lot line.
7. *Lot Coverage.* No zoning lot shall have a lot coverage for all buildings and structures thereon in excess of 40% of the lot area except that the lot coverage may be increased to 45% if all buildings and structures are constructed on a slab such that there is no habitable crawl space, basement or sub-basement. In determining lot coverage for a lot of less than 40 feet, the Building Commissioner shall reserve 440 square feet for an accessory garage unless the residence being constructed contains a 2-car attached garage or an accessory garage is being constructed. On any interior zoning lot having a lot width of less than 40 feet, an accessory garage may only be constructed at the rear of the lot and only have access from an alley.
8. *Required Yard Encroachments.* For the purpose of determining compliance with any required yard, no part of any building or structure shall be permitted to protrude or cantilever into a required side yard except that an encroachment by a chimney, roof, eaves, gutters, awnings, canopies, air

conditioning equipment, or bay windows shall be permitted provided that it remains at least 3 feet from any side yard lot line. An open porch (a porch which may have a roof and screens, but not windows), balcony, uncovered deck, and swimming pool may encroach into a required rear yard, but no closer than 10 feet from the rear yard lot line and no closer than 3 feet from any side yard lot line. An uncovered porch (a porch which does not have a roof) with a floor not more than 5 feet above grade, stairs, bay windows, awnings over windows, canopies over entrances, eaves, roof overhangs, and gutters may encroach into the required front yard, but no closer than 15 feet from the front yard lot line and no closer than 3 feet from any side yard lot line. Any encroachment permitted above shall be excluded from the calculation of allowable lot coverage in Section 25-52 B. 7.

(Ord. No. 20-2009 § 1, 9-21-09)

### **Sec. 25-53. "B" Multi-Family Residential District.**

A. *Permitted Uses.* The following uses and no others, are permitted as of right in the "B" Multi-Family Residential District.

1. Single-family detached dwellings.
2. Single-family attached dwellings.
3. Multi-family dwellings.
4. Municipal-owned facilities.
5. Churches, temples and places of worship.
6. Hospitals.
7. Small community residences provided that they are located not less than 1,000 feet from another community residence.
8. Large community residences provided that they are located not less than 1,000 feet from another community residence.
9. One garage and one storage shed per zoning lot, and the storage shed must be located to the rear of the principal structure on the zoning lot.
10. Home occupations.

B. *Bulk, Yard and Space Requirements.* The following requirements apply to all uses in the "B" Multi-Family Residential District.

1. *Building Height.* The maximum height of any structure is 35 feet, except for churches, temples, places of worship and hospitals which have a maximum height of 65 feet.
2. *Lot Area.* Each zoning lot shall contain not less than 4,400 square feet.
3. *Lot Width.* Each zoning lot shall have a lot width of not less than 40 feet measured at the front of the main building and the rear of the main building.
4. *Front Yard.* Each zoning lot shall have a front yard of not less than 25 feet except that the Building Commissioner may establish a front yard of not less than 20 feet in order to conform to the front yard of the main buildings on neighboring lots on the same side of the street between the nearest intersections.
5. *Rear Yard.* Each zoning lot shall have a rear yard of not less than 25 feet. An accessory building may be located within the rear yard but not less than 3 feet from the rear lot line.
6. *Side Yard.* Each zoning lot shall have 2 side yards each of which shall be 10% of the lot



width but not less than 4 feet. The side yard on a corner lot shall be increased by the Building Commissioner to conform to the front yards and side yards of buildings on neighboring lots on the same side of the street between the nearest intersections. An accessory building may be located within an interior side yard but not less than 3 feet from the side lot line.

7. *Lot Coverage.* No zoning lot shall have a lot coverage for all buildings and structures thereon in excess of 35% of the lot area except that the lot coverage may be increased to 45% if all buildings and structures are constructed on a slab such that there is no crawl space, basement or sub-basement. In determining lot coverage for a lot of less than 40 feet, the Building Commissioner shall reserve 440 square feet for an accessory garage unless the residence being constructed contains a 2-car attached garage or an accessory garage is being constructed. On any interior zoning lot having a lot width of less than 40 feet, an accessory garage may only be constructed at the rear of the lot and only have access from an alley.

8. *Required Yard Encroachments.* For the purpose of determining compliance with any required yard, no part of any building or structure shall be permitted to protrude or cantilever into a required yard except that an encroachment by a chimney, uncovered porch, uncovered deck, roof, eaves, gutters, awnings, canopies, air conditioning equipment, balconies, or bay windows shall be permitted provided that it remains at least 3 feet from any side yard lot line.

9. *Intensity of Use.* For each dwelling unit a minimum lot area of 2,000 square feet is required.

10. *Size of Dwelling Unit.* The minimum size of each dwelling unit in a multi-family structure shall be 1,000 square feet.

## **Sec. 25-54. "C" Commercial District.**

A. *Permitted Uses.* The following uses and no others, are permitted as of right in the "C" Commercial District. In interpreting the use designations, reference should be made to the Standard Industrial Classification Manual. SIC codes are given in parentheses following each use listing, when available.

### *Construction, Special Trade Contractors:*

1. Plumbing, Heating, and Air-Conditioning Contractors and Showrooms (171)
2. Painting & Paper Hanging Contractors & Showrooms (172)
3. Electrical Work Contractors (173)
4. Terrazzo, Tile, Marble, and Mosaic Work Contractors (1743)
5. Carpentry and Floor Work Contractors (175)
6. Roofing, Siding, and Sheet Metal Work Contractors (176)
7. Glass and Glazing Work Contractors and Showrooms (1793)
8. Special Trade Contractors not elsewhere classified (1799)

### *Printing, Publishing, and Allied Industries:*

11. Commercial Printing (275) and Photocopying

### *Retail Trade:*

21. Stationery and Office Supply Stores (5112)
22. Lumber and Other Building Materials Dealers (521) when conducted wholly within a building

23. Paint, Glass, and Wallpaper Stores (523)
24. Hardware Stores (525)
25. Retail Nurseries, Lawn, and Garden Supply Stores (526)
26. Department Stores (531)
27. Variety Stores (533)
28. Miscellaneous General Merchandise Stores (539)
29. Food Stores (54)
30. New and Used Motor Vehicle Dealers (551)
31. Home Supply Stores (44131), but not including retail auto supply stores
32. Boat Dealers (555)
33. Apparel and Accessory Stores (56)
34. Home Furniture and Home Furnishings Stores (571)
35. Household Appliance Stores (572)
36. Radio, Television, Consumer Electronics, and Music Stores (573)
37. Eating Places (5812), including carry-out and drive-thru windows but not including drive-in establishments
38. Drinking Places (5813) accessory to eating places
39. Drug Stores and Proprietary Stores (591)
40. Used Merchandise Stores but not including pawn shops (593)
41. Sporting Good Stores and Bicycle Shops (5941)
42. Book Stores (5942)
43. Stationery Stores (5943)
44. Jewelry Stores (5944)
45. Hobby, Toy, and Game Shops (5945)
46. Camera and Photographic Supply Stores (5946)
47. Gift, Novelty, and Souvenir Shops (5947)
48. Luggage and Leather Goods Stores (5948)
49. Sewing, Needlework, and Piece Goods Stores (5949)
50. Florists (5992)
51. Tobacco Stores and Stands (5993)
52. News Dealers and Newsstands (5994)
53. Optical Goods Stores (5995)
54. Furrier Shops

55. Miscellaneous Retail Stores (5999), but not including auction rooms, fireworks sales or sales barns

*Finance, Insurance, and Real Estate:*

- 61. Depository and Nondepository Credit Institutions (60-61)
- 62. Security and Commodity Brokers, Dealers, Exchanges, and Services (62)
- 63. Insurance Carriers, Agents, Brokers, and Services (63-64)
- 64. Real Estate Offices (65)
- 65. Holding and Other Investment Offices (67)

*Services:*

- 71. Veterinary Services for Animal Specialties (0742)
- 72. Grooming Services for pets (0752)
- 73. Medical and miscellaneous equipment rental and leasing (7352/7359)
- 74. Laundry, Cleaning, and Garment Services (721), but not including drycleaning plants (7216) or industrial launderers (7218)
- 75. Photographic Studios, Portrait (722)
- 76. Beauty Shops (723)
- 77. Barber Shops (724)
- 78. Shoe Repair Shops (725)
- 79. Tax Return Preparation Services (7291)
- 80. Advertising Services (731)
- 81. Mailing, Reproduction, Commercial Art and Photography, and Stenographic Services
- 82. Services to Dwellings and Other Buildings (734)
- 83. Employment Agencies (7361)
- 84. Computer Programming, Data Processing, and Other Computer Related Services (737)
- 85. Interior Decorating (7389)
- 86. Electrical Repair Shops (762), but not including refrigeration and air-conditioning service and repair shops (7632)
- 87. Watch, Clock, and Jewelry Repair (763)
- 88. Reupholstery and Furniture Repair (764)
- 89. Video Tape Rental and Sales (784)
- 90. Offices and Clinics of Doctors of Medicine, Dentists, Osteopaths, Chiropractors, Optometrists, Podiatrists, and Other Health Practitioners (801-804)
- 91. Legal Services (81)
- 92. Engineering, Architectural, and Surveying Services (871)

93. Accounting, Auditing, and Bookkeeping Services (872)
94. Management and Public Relations Services (874)
95. Miscellaneous Services not elsewhere classified (89)
96. Dance Studios, Schools and Halls (7911)
97. Physical Fitness Facilities (7991)
98. Optical, Medical and Dental Laboratories (807)
99. Business Associations (861)
100. Labor Associations (863)
101. Civic, Social and Fraternal Associations (864)
102. Political Organizations (865)
103. Research, Development and Testing Services (873)
104. Business and Professional Offices not otherwise listed
105. Passenger car leasing and passenger car rental, provided that it is located more than 300 feet from a traffic control signal.
106. Undertaking and Funeral Parlor
107. Hospitals (806)

*Transportation and Utility Services:*

111. Travel Agencies (4724)
112. Tour Operators (4725)
113. Airline, Bus, and Railroad Ticket Offices (4729)
114. Offices of Communications and Utility Companies (48-49)

*Multiple Family Dwellings:*

121. Residential occupancy but not on the first floor of any structure and provided that each dwelling unit has a minimum of 1,000 square feet and that the area of all dwelling units does not exceed the area of all commercial uses in the structure.

**B. Use Limitations.** The following limitations apply to all uses in the "C" Commercial District.

1. **Noise.** No use shall produce noise of such volume or pitch as to cause a nuisance in any residential district at any time or within any residential dwelling unit located in any district between the hours of 10:00 p.m. and 7:00 a.m.

2. **Exterior Lighting.** Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in any residential district. No exterior light in or adjacent to any residential district shall be operated to produce an intensity of light exceeding one-half foot candle at any residential lot line.

3. **Enclosed Structure.** All business, service, storage, and display of goods, other than off-street parking and loading and the sale of motor vehicles fuels and related products when the same are allowed as a special use, shall be conducted within a completely enclosed building.

4. **Outdoor Storage.** Outdoor storage shall not be allowed as an accessory use.

5. *Truck Parking.* No parking of trucks shall be allowed between the hours of 10:00 p.m. to 7:00 a.m. except for trucks based on the property and used in conjunction with a permitted use thereon, and then such trucks may only be parked to the side or rear of the main structure on the property.

C. *Bulk, Yard and Space Requirements.* The following requirements apply to all uses in the "C" Commercial District.

1. *Height.* The maximum height of any structure is 3 stories or 34 feet whichever is less, provided that hospitals shall not exceed 140 feet in height. The maximum height of an accessory structure is 15 feet.

2. *Front, Interior Side and Corner Side Yard Setbacks.* No front, interior side and corner side yard setback is required.

3. *Rear Yard Setback.* The rear yard setback shall be a minimum of 10 feet.

4. *Lot Coverage.* The maximum total lot coverage is 50%.

5. *Floor Area Ratio.* The maximum floor area ratio is 3.0.

(Ord. No. 16-2008, §§ 1-2, 6-16-08; Am. Ord. No. 5-2010, § 1, 4-5-10)

### **Sec. 25-55. "I" Cemetery District.**

A. Permitted Uses. No land or building shall be used, erected or occupied except for the following permitted uses:

1. Cemetery for the interment of human remains, including chapels, administration buildings, maintenance buildings, and funeral homes, but excluding crematoriums.

### **Sec. 25-58. "O" Open Space Recreation District.**

A. Permitted Uses. No land or building shall be used, erected or occupied except for the following permitted uses:

1. Public and private golf courses, including associated structures such as club house, maintenance buildings and pro shop.

2. Golf driving range.

3. Riding clubs and stables.

4. Tennis clubs.

5. Raising of farm crops.

6. Soccer clubs, except professional and semi-professional.

7. Baseball clubs, except professional and semi-professional.

8. Football clubs, except professional and semi-professional.

9. Skiing, including lifts and lodge.

10. Tobogganing and sledding.

11. Botanical and zoological gardens.

12. Conservatories.
13. Miniature golf course.
14. Zoos.
15. Wildlife and game preserve.
16. Polo club.

B. *Bulk, Yard and Space Requirements.* The following requirements apply to all uses in the "O" Open Space Recreation District:

1. *Height.* The maximum height of any structure, including accessory structures, is 3 stories or 35 feet whichever is less.
2. *Front, Interior Side and Corner Side Yard and Rear Yard Setbacks.* No building may be erected within 300 feet of any residentially used property or within 50 feet of any public street.
3. *Lot Coverage.* The maximum total lot coverage is 1%.
4. *Floor Area Ratio.* The maximum floor area ratio is .02.

## ARTICLE VI SPECIAL USES, PLANNED DEVELOPMENTS

### Sec. 25-60. Special Use Permits.

A. *Special Uses.* The following uses are special uses and may not be developed without a special use permit. The list is not all inclusive and is only an example of the types of uses which require a special use permit. In interpreting the use designations, reference should be made to the Standard Industrial Classification Manual. SIC codes are given in parentheses following each use listing, when available.

1. Adult Book Store, Adult Entertainment Cabaret, Adult Mini Motion Picture Theaters, and Adult Motion Picture Theater (but not within 500 feet of a dwelling unit located within the Village)
2. Adult Day Care Services (832)
3. Agricultural, Food and Industrial Research & Development Laboratories (7391)
4. Amusement and Recreation Services (7999)
5. Auto Supply and Parts Stores
6. Automotive Repair Shops (753)
7. Automotive Repair Shops not classified elsewhere (7539)
8. Billiard Parlor (7999)
9. Bingo Parlor (7999)
10. Boat Dealers (555)
11. Bowling Alley (7933)
12. Business Associations (861)

13. Car Washes (7542)
14. Child Day Care Services (835)
15. Commercial Testing and Laboratories (8734)
16. Correspondence, Business, Secretarial and Vocational Schools (824)
17. Drive-in Eating Places (5812)
18. Fuel Dealers (598)
19. Gasoline Service Stations, including food service (554)
20. Heavy Construction Equipment Rental and Leasing (7353)
21. Hotels and Motels (701)
22. Job Training and Vocational Rehabilitation Services (833)
  - 22.1 Laundromats, Including Self-Service Laundry and Drycleaning (7215)
  - 22.2 Loan Institutions when the Predominant Business is Short-Term Loans, Typically on Paychecks, Post-Dated Checks and Vehicle Titles (6141)
23. Lumber and Other Building Materials Dealers (521)
24. Lumber and Other Construction Materials (503)
25. Manufacturing (Division D)
26. Massage Parlors (7299)
27. Membership Sports and Recreation Clubs (7997)
28. Motion Picture Theaters (7832)
29. Nightclubs, Cabarets, Discotheques and Dance Clubs
30. Nursery and Pre-Kindergarten Schools (8351)
31. Nursing and Personal Care Facility (805)
32. Outdoor Automatic Teller Machines when not on the same property as a financial institution
33. Outdoor Live Entertainment
34. Outdoor Seating Accessory To Permitted Eating Places
35. Outdoor Uncontained Bulk Storage
36. Pawn Shops (5932)
37. Physical Fitness Facilities (7991)
38. Planned Developments
  - 38.1 Public and Private Elementary and High Schools
39. Public Utility Yards and Facilities (49)
40. Public Warehousing and Storage (422)
41. Recycling Facility and any other use regulated by the Illinois Environmental Protection Agency but which does not require siting approval

42. Research, Development and Testing Services (873)
43. Residential Care Facility (8351)
44. Scrap and Waste Materials (5093)
45. Teen Dances and parties open to the public for charge
46. Tire Retreading and Repair Shops (7534)
47. Top, Body and Upholstery Repair Shops and Paint Shops (7532)
48. Transitional Service Facility
49. Truck Rental and Leasing (7513)

50. Medical Cannabis Dispensing Organizations, provided the facilities otherwise comply with the provisions of Article X.

51. Any use not a permitted use in that zoning district

B. *Purpose.* Special uses are those uses having some special impact or uniqueness that require a careful review of their location, design, configuration, and special impact to determine, against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.

C. *Procedure.*

1. *Application.* Applications for special use permits shall be filed with the Zoning Board of Appeals.

2. *Public Hearing.* A public hearing shall be set, noticed, and conducted by the Zoning Board of Appeals.

3. *Action by Zoning Board of Appeals.* Within 60 days after the conclusion of the public hearing, the Zoning Board of Appeals shall transmit to the Board of Trustees its recommendation either granting the application for a special use permit; granting the application subject to conditions, or denying the application. The failure of the Zoning Board of Appeals to act within such 60 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the denial of the proposed special use permit.

4. *Action by Board of Trustees.* Within 45 days after the receipt of the recommendation of the Zoning Board of Appeals, or its failure to act as above provided, the Board of Trustees shall either deny the application or, by ordinance duly passed, shall grant the special use permit, with or without modifications or conditions. The failure of the Board of Trustees to act within such 45 days, or such further time to which the applicant may agree, shall be deemed a decision denying the special use permit.

D. *Standards for Special Use Permits.*

1. *General Standards.* No special use permit shall be granted pursuant to this Section unless the applicant shall establish that:

- (a) *Code and Plan Purposes.* The proposed use and development will be in harmony with the general and specific purposes for which this Code was enacted and for which the regulations of the district in question were established.

- (b) *No Undue Adverse Impact.* The proposed use and development will not have a substantial or undue adverse effect upon adjacent property, the character of the area, or the public health, safety, and general welfare.



(c) *No Interference with Surrounding Development.* The proposed use and development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the use and development of neighboring property in accordance with the applicable district regulations.

(d) *Adequate Public Facilities.* The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools, or the applicant will provide adequately for such services.

(e) *No Traffic Congestion.* The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets.

(f) *No-Destruction of Significant Features.* The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.

(g) *Compliance with Standards.* The proposed use and development complies with all standards imposed on that use and any district where it is a permitted use.

2. *Considerations.* In determining whether the applicant's evidence establishes that the foregoing standards have been met, the Zoning Board of Appeals shall consider:

(a) *Public Benefit.* Whether and to what extent, the proposed use and development at the particular location requested is necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.

(b) *Alternative Locations.* Whether and to what extent, such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.

(c) *Mitigation of Adverse Impacts.* Whether and to what extent, all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.

E. *Conditions on Special Use Permits.* The Zoning Board of Appeals may recommend and the Board of Trustees may impose such conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Code upon the premises benefited by a special use permit as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services; provided, however, that such conditions shall not be used as a device to grant a permit for a special use that is intended to be temporary in nature. Such conditions shall be expressly set forth in the ordinance granting the special use. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the special use permit.

F. *Affidavit of Compliance with Conditions; Fee.* Whenever any special use permit granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Building Commissioner so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Building Commissioner, to recover the Village's actual direct cost of an inspection to verify that such conditions and limitations have been met.

G. *Effect of Issuance of a Special Use Permit.* The grant of a special use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the codes and ordinances of the Village.

H. *Limitations on Special Use Permits.* Subject to an extension of time granted by the Building

Commissioner no special use permit shall be valid for a period longer than one year unless a Building Permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use commenced within that period.

A special use permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six consecutive months or more.

Except when otherwise provided in the Ordinance granting a special use permit, a special use permit shall be deemed to relate to, and be for the benefit of, the use and property in question rather than the owner or operator of such use or property

1. *Amendments to Special Use Permits.* A special use permit may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section for its original approval.

(Am. Ord. No. 4-2014 § 2, 2-3-14)

## **Sec. 25-61. Planned Developments.**

A. *Purpose.* Planned developments are included in this Code as a distinct category of special use. As such, they are authorized in every zoning district. In particular, however, the planned development technique is intended to allow the relaxation of otherwise applicable substantive requirements based upon procedural protections providing for detailed review of individual proposals for significant developments. This special regulatory technique is included in this Code in recognition of the fact that traditional use, bulk, space, and yard regulations which may be useful in protecting the character of substantially developed and stable areas may impose inappropriate pre-regulations and rigidities upon the development or redevelopment of parcels or areas that lend themselves to an individual, planned approach. Through the flexibility of the planned development technique, the Village seeks to achieve the following specific objectives:

1. Creation of a more desirable environment than would be possible through strict application of other Village land use regulations.
2. Efficient use of land resulting in smaller networks of utilities and streets while lowering development and housing costs.
3. Promotion of a creative approach to the use of land and related physical facilities resulting in better design and development, including aesthetic amenities.
4. Combination and coordination of architectural styles, building forms, and building relationships.
5. Preservation and enhancement of desirable site characteristics such as natural topography, vegetation, and geologic features, and the prevention of soil erosion.
6. Provision for the preservation and beneficial use of open space.
7. An increase in the amount of open space over that which would result from the application of conventional subdivision and zoning regulations.
8. Encouragement of land uses that promote the public health, safety and general welfare.

### B. *Procedure.*

1. *Application.* Applications for a planned development shall be filed with the Zoning Board of Appeals and shall contain a Final Plan detailing:

- (a) categories of uses to be permitted; and
- (b) general location of residential and nonresidential land uses; and
- (c) overall maximum density of residential uses and intensity of nonresidential uses; and
- (d) the general architectural style of the proposed development; and
- (e) general location and extent of public and private open space including recreational amenities; and
- (f) general location of vehicular and pedestrian circulation systems; and
- (g) staging of development; and
- (h) nature, scope, and extent of public dedications, improvements, or contributions to be provided by the applicant.

2. *Public Hearing.* A public hearing shall be set, noticed, and conducted by the Zoning Board of Appeals.

3. *Subdivision.* When a subdivision of land is proposed in connection with a planned development, review of the final plat of the proposed subdivision shall be carried out simultaneously with review of the Final Plan.

4. *Action by Zoning Board of Appeals.* Within 60 days after the conclusion of the public hearing, the Zoning Board of Appeals shall transmit to the Board of Trustees its recommendation either granting the application for planned development; granting the application subject to conditions, or denying the application. The failure of the Zoning Board of Appeals to act within such 60 days, or such further time to which the applicant may agree, shall be deemed a recommendation for the denial of the proposed planned development.

5. *Action by Board of Trustees.* Within 45 days after the receipt of the recommendation of the Zoning Board of Appeals, or its failure to act as above provided, the Board of Trustees shall either deny the application or, by ordinance duly passed, shall approve the planned development, with or without modifications or conditions. The failure of the Board of Trustees to act within such 45 days, or such further time to which the applicant may agree, shall be deemed a decision denying the planned development.

C. *Standards for Planned Developments.* No planned development shall be granted pursuant to this section unless the application shall establish that:

1. *Special Use Permit Standards.* The proposed development will meet each of the standards made applicable to special uses pursuant to Section 25-60 of this Code.

2. *Unified Ownership Required.* The entire property proposed for planned development treatment shall be in single ownership or under such unified control as to ensure that the entire property will be developed as a unified whole. All owners of the property shall be included as joint applicants on all applications and all approvals shall bind all owners. The violation of any owner as to any tract shall be deemed a violation as to all owners and all tracts.

3. *Minimum Area.* The district regulations of this Code establishing standards for particular types of planned developments specify the minimum area required for some planned developments. In addition to meeting that specific standard, or where no specific standard is set, the applicant shall have the burden of establishing that the subject property is of sufficient size and shape to be planned and developed as a unified whole capable of meeting the objectives for which planned developments may be established pursuant to this Section.

4. *Covenants and Restrictions to be Enforceable by Village.* All covenants, deed restrictions, easements, and similar restrictions to be recorded in connection with the planned development shall provide that they may not be modified, removed, or released without the express consent of the

Board of Trustees and that they may be enforced by the Village as well as by future landowners within the proposed development.

5. *Public Open Space and Contributions.* Whenever the development will create a need for land for public purposes of the Village within the proposed planned development, the Board of Trustees may require that such area be designated and to the extent such need is specifically and uniquely attributable to the proposed development, dedicated to the Village for such use. In addition, the Board of Trustees may require evidence that all requirements of Village ordinances pertaining to the dedication of land or the contribution of cash in connection with subdivisions or developments of land have been met as respects the proposed planned development, whether or not such proposed development would be otherwise subject to such ordinances.

6. *Common Open Space.*

(a) *Amount, Location, and Use.* The failure of a planned development to provide common open space shall be considered to be an indication that it has not satisfied the objectives for which such developments may be approved pursuant to this Code. When common open space is provided in a planned development, the amount and location of such open space shall be consistent with its intended function as set forth in the application and planned development plans. No such open space shall be used for the construction of any structure or improvement except such structures and improvements as may be approved in the Final Plan as appropriate to the intended leisure and recreational uses for which such open space is intended.

(b) *Preservation.* Adequate safeguards, including recorded covenants or dedication of development rights, shall be provided to prevent the subsequent use of common open space for any use, structure, improvement, or development other than that shown on the approved Final Plan. The restrictions must be permanent and not for a given period of years and must run with the land.

(c) *Ownership and Maintenance.* The Final Plan shall include such provisions for the ownership and maintenance of such open space and improvements as are reasonably necessary to ensure their continuity, care, conservation, maintenance, and operation in accordance with predetermined standards and to ensure that remedial measures will be available to the Village if such open space or improvements are permitted to deteriorate or are not maintained in a condition consistent with the best interests of the planned development or the Village.

(d) *Property Owners' Association.* When the requirements of the preceding Subparagraph are to be satisfied by the ownership or maintenance of such open space or improvements by a property owners' association, such association shall meet each of the following standards:

(1) the by-laws and rules of the association and all declarations, covenants, and restrictions to be recorded must be approved as part of the Final Plan prior to becoming effective. Each such document shall provide that it shall not be amended in any manner that would result in it being a violation of the requirements of this subparagraph; and

(2) the association must be established and all covenants and restrictions must be recorded prior to the sale of any property within the area of the planned development designated to have the exclusive use of the proposed open space or improvements; and

(3) the association must be responsible for casualty and liability insurance, taxes, and the maintenance of the open space and improvements to be deeded to it; and

(4) membership in the association must be mandatory for each property owner and any successive owner having a right to the use or enjoyment of such open space or improvements; and

(5) every property owner having a right to the use or enjoyment of such open space or improvements must pay its pro rata share of the cost of the association by means of an assessment to be levied by the association that meets the requirements for becoming a lien on the property in accordance with statutes of the State of Illinois; and

(6) the association must have the right to adjust the assessment to meet changed needs.

The membership vote required to authorize such adjustment shall not be fixed at more than two-thirds of the members voting on the issue; and

(7) the Village must be given the right to enforce the covenants; and

(8) the Village must be given the right, after 10 days' written notice to the association, to perform any maintenance or repair work that the association has neglected to perform, to assess the membership for such work and to have a lien against the property for any member failing to pay such assessment. For this purpose alone, the Village shall have all the rights and powers of the association and its governing body under the agreements and declarations creating the association.

7. *Landscaping and Perimeter Treatment.* Any area of a planned development not used for structures or circulation elements shall be landscaped or otherwise improved. The perimeter of the planned development shall be treated so as to ensure compatibility with surrounding uses by means such as provision of compatible uses and structures, setbacks, screening, or natural or man-made buffers. Every planned development having 20 or more acres shall provide a perimeter landscaped open space along each of its boundaries; each such open space shall have a minimum depth equal to the minimum front yard required in the district in which it is located or which it abuts, whichever is greater.

8. *Private Streets.* Private streets are prohibited unless expressly approved by the Board of Trustees. If so approved, they shall meet all construction standards applicable to public streets. No such streets shall be approved except upon the condition that they shall be owned and maintained by a property owners' association.

9. *Sidewalks.* A sidewalk shall be provided along at least one side of every street in or abutting a planned development; provided, however, that such sidewalk may be constructed in a street right-of-way or as a specific element of the design of the planned development.

10. *Utilities.* All utility lines shall be installed underground.

D. *Conditions on Planned Developments.* The Zoning Board of Appeals may recommend and the Board of Trustees may impose such conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of this Code upon the premises benefited by a planned development as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services; provided, however, that such conditions shall not be used as a device to approve a planned development that is intended to be temporary in nature. Such conditions shall be expressly set forth in the ordinance granting the planned development. Violation of any such condition or limitation shall be a violation of this Code and shall constitute grounds for revocation of the planned development approval.

E. *Affidavit of Compliance with Conditions; Fee.* Whenever any planned development granted pursuant to this Section is made subject to conditions or limitations to be met by the applicant, the applicant shall, upon meeting such conditions, file an affidavit with the Building Commissioner so stating. Such affidavit shall be accompanied by a nonrefundable fee, to be fixed in each case by the Building Commissioner, to recover the Village's actual direct cost of an inspection to verify that such conditions and limitations have been met.

F. *Effect of Approval of a Planned Development.* The approval of a planned development shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits or approvals that may be required by the codes and ordinances of the Village.

G. *Limitations on Planned Development Permits.* Subject to an extension of time granted by the Building Commissioner no permit for a planned development shall be valid for a period longer than one year unless a Building Permit is issued and construction is actually begun within that period and is thereafter diligently pursued to completion or unless a Certificate of Occupancy is issued and a use

commenced within that period.

A planned development permit shall be deemed to authorize only the particular use for which it was issued, and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of six consecutive months or more.

Except when otherwise provided in the Ordinance approving a planned development, a planned development permit shall be deemed to relate to, and be for the benefit of, the use and property in question rather than the owner or operator of such use or property

H. Amendments to Planned Development Permits. A planned development permit may be amended, varied, or altered only pursuant to the procedures and subject to the standards and limitations provided in this Section for its original approval.

## **ARTICLE VII COMMUNITY RESIDENCES**

### **Sec. 25-70. Responsibility.**

The primary responsibility for enforcement of all regulations in this Code pertaining to community residences, certifications and the issuance of administrative permits, shall be in the zoning and development committee of the board of trustees. The primary responsibility for the issuance of a building permit, construction and compliance with all building regulations including issuance of an occupancy permit that construction complies with the building Code shall remain with the building commissioner.

### **Sec. 25-71. Application for Community Residence Permits.**

In every application for a community residence permit or certification, the applicant shall demonstrate that it has either obtained or is eligible for state or local licensing or certification to operate the proposed community residence, or that the proposed community residence is licensed or certified or eligible for licensing or certification. Applicants to operate community residences for which the state does not require licensing or certification shall obtain a special use permit prior to obtaining an occupancy certificate. The zoning and development committee of the board of trustees shall issue such permits or certifications administratively. The board may revoke a certificate of occupancy for a community residence if its license or certification, or the operator's license or certification to operate community residences, is revoked. A certificate of occupancy is not transferable to another operator or to another location.

### **Sec. 25-72. Community Residence Permits.**

No building permit or occupancy permit, administrative or otherwise, shall be issued unless it is found that such application conforms with the following standards:

- A. That it complies with zoning requirements.
- B. That it meets all the qualifications for a group home set forth in law.
- C. That it complies with the current building Code, fire prevention Code and property maintenance Code.

- D. That it complies with all state and federal building and occupancy requirements.
- E. That it is duly licensed and certified by the state.
- F. That it would not create an institutional setting.
- G. That adequate off-street parking is provided.
- H. That parking on streets will not interfere with other resident street parking.
- I. That the building is so designed that it will fit in with the character of the neighborhood in which it is being located; that is, provide a home-like atmosphere.

## ARTICLE VIII PARKING

### Sec. 25-80. Minimum Parking Requirements.

For the following uses, the following minimum number of off-street parking spaces or stacking spaces shall be provided:

- A. *Residential.*
  - 1. Multiple Family Dwellings 2 for each dwelling unit
  - 2. Single Family Dwellings 2 for each dwelling unit
  - 3. Transitional Service Facilities and Community Residences 1 for each 3 residents plus 1 for each employee on the major shift
- B. *Retail Trade.*
  - 1. All Retail Trade Uses not otherwise listed 1 for each 250 square feet of net floor area
  - 2. Gasoline Service Stations, not including mini-marts 2 for each service bay plus 1 for each employee
  - 3. Car Washes 4 for each manual washing rack or bay plus 1 for each employee plus 5 stacking spaces for each automated washing rack or bay
  - 4. Eating and Drinking Places 1 for each 65 square feet of gross floor area but in no event less than 12 parking spaces
  - 5. Drive-In Facilities 8 stacking spaces for the first drive-in window plus 2 stacking spaces for each additional drive-in window
- C. *Finance, Insurance, and Real Estate.* 1 for each 250 square feet of net floor area
- D. *Business and Professional Offices.* 1 for each 350 square feet of net floor area
- E. *Services.*
  - 1. All Services not otherwise listed 1 for each 250 square feet of net floor area
  - 2. Motion Picture Theatres 1 for each 2 persons of design capacity plus 1 for each 2 employees
  - 3. Research and Development Laboratories and Commercial Testing 1 for each 1.5

employees on the major shift plus 1 for each company vehicle

4. Physical Fitness Facilities 1 for each 200 square feet of gross floor area
  5. Membership Sports and Recreation Clubs 1 for each 200 square feet of gross floor area
  6. Health Service Offices 6 for each licensed practitioner, not including nurses and assistants, plus 1 for each employee
  7. Nursing and Personal Care Facilities 1 for each 3 beds plus 1 for each employee and full-time volunteer
  8. Hospitals 1 for each 2 beds plus 1.5 for each emergency room bed plus 1 for each employee and full-time volunteer
  9. Elementary Schools 1 for each employee plus 4 for visitors and guests
  10. Secondary Schools 1 for each 8 students plus 1 for each employee
  11. Libraries and Information Centers 1 for each 750 square feet of gross floor area
  12. Vocational Schools, except Correspondence Schools 1 for each student of design capacity plus 2 for each 3 employees
  13. Child and Adult Day Care Services and Nursery Schools 1 for each employee plus 1 for each 5 children or adults
  14. Museums and Art Galleries 1 for each 400 square feet of gross floor area
  15. Undertaking and Funeral Establishments 1 for each seat in each chapel or parlor plus 1 for each employee plus 1 for each company vehicle
  16. Golf Courses, including all related facilities 60 for each nine holes plus 1 for each 2 employees
  17. Religious Organizations 1 for each 4 persons of design capacity
  18. Other Membership Organizations 1 for each 3 persons of design capacity
  19. Bowling Alleys 5 per lane plus 1 for each employee, plus 50% of the space otherwise required for accessory use
  20. Billiard Parlors or Tables 2 per table plus 1 for each employee
  21. Hotels/Motels 1 per guest room plus 1 for each employee plus specified requirements for restaurants, bars, meeting rooms, and related facilities
  22. Beauty Shops and Barber Shops 3 parking spaces for each chair or position where customers are serviced
  23. Laundromats 1 parking space for every 4 machines
- F. *Public Administration.* 1 for each 250 square feet of gross floor space
- G. *Uses Conducted Outside Structures.* 1 for each 1,500 square feet of outdoor area devoted to such use plus spaces as otherwise required for any aspect of the use conducted within a structure
- H. *Construction, Manufacturing, Transportation, and Public Utilities.*
1. Production and Assembly 1 for each 1.5 employees plus 1 for each company vehicle
  2. Warehouse and Storage 1 for each 2,000 square feet of gross floor area



3. Office and other activities 1 for each 350 square feet of gross floor area

### **Sec. 25-81. Computation.**

A. *Unspecified Uses.* When the ultimate use of a structure is not known, the maximum number of spaces that might be required for any use to which the structure might be reasonably and permissibly be devoted shall be required.

B. *Fractional Spaces.* When determination of the number of required parking spaces results in the requirement of a fractional space, any fraction shall require one additional parking space.

C. *Capacity Calculations.* When parking spaces are required on the basis of capacity, capacity shall be determined based on the occupancy standards established by the Building Code.

D. *Bench Seating.* In stadia, auditoria, houses of worship, and other places of assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of seating facility shall be counted as one seat for the purpose of determining the requirement for off-street parking facilities under this Code.

E. *Population Calculations.* When parking spaces are required on the basis of the number of employees, customers, students, or similar measure, the maximum number for which the structure is designed shall govern, except that when the structure has no design capacity the maximum number present at any one time shall govern.

### **Sec. 25-82. Parking Design and Maintenance.**

All parking facilities shall meet the following requirements of design, construction and maintenance:

A. *Access to Street.* No curb cut across public property shall exceed 30 feet without the written approval of the Building Commissioner. All parking lots shall be so located and designed as to provide access to adjacent streets with the least interference with through traffic movements. No access shall be provided through a zoning district other than the district in which the parking lot is located. No access shall be provided through a zoning lot other than the zoning lot served by such access except across a permanent recorded access easement.

B. *Turn-Around Area.* All parking lots and garages, other than a parking lot to a single family or 2 family dwelling, shall be provided with a turn-around area or other means to permit cars to exit the parking lot or garage without backing onto any street or sidewalk.

C. *Surfacing.* All new and existing parking areas shall be improved with paved brick, asphalt or concrete surface over a proper base. All construction shall meet the minimum standards for structural materials derived from The Illinois Department of Transportation Design Manual, current edition. Individual stalls shall be clearly identified by painted markings 4" to 6" in width.

D. *Drainage.* All parking areas shall provide adequate drainage of water to the storm sewer system. Storm water run-off shall be detained on site in accordance with applicable Village standards and ordinances of the Metropolitan Water Reclamation District of Greater Chicago.

E. *Screening and landscaping.* All parking areas shall be screened on each side abutting any property situated in a residential district or improved with a residence by a wall, fence or densely planted hedge not less than 5 feet nor more than 6 feet in height. Where a public alley exists between the parking area and the residential district, and is used for ingress and egress to the parking area, screening and landscaping shall be used only where in the opinion of the building commissioner it is safe to do so.

F. *Lighting.* Fixed lighting shall be provided for all parking lots and garages accommodating more

than 10 vehicles. Any lighting used to illuminate any parking area shall be directed away from adjoining properties. In no case shall lighting exceed 3 foot candles measured at any lot line.

G. *Use.* No off-street parking lot or garage shall be used for any purpose other than the temporary storage of motor vehicles related to the premises on the zoning lot. The storage of merchandise and the sale or commercial repair of vehicles are prohibited.

H. *Maximum number of spaces.* The total number of parking spaces provided for a single family or multifamily dwelling shall not exceed that required by more than 50 percent or 4 spaces, whichever number is greater.

I. *Car stops.* Concrete bumpers shall be installed not less than 24 inches from any public sidewalk, building, or landscaping where determined necessary by the Building Commissioner.

J. *Sidewalks.* Public sidewalks of concrete must be installed on all rights-of-way adjacent to parking areas.

K. *Maintenance.* All parking lots shall be properly maintained at all times so as to be free of pot holes, broken curbs, and other damaged or neglected features.

L. *Area and Access.* Every parking stall shall be at least 9 feet in width. All parking stalls and aisles shall conform to the following specifications:

Angle of Parking (degrees)	Stall Width Parallel to Aisle	Stall Depth Perpendicular to Aisle	Aisle Width (One Way)
0	20.0'	9.0'	13.0'
45	12.7'	16.5'	13.0'
60	10.4'	18.0'	16.0'
75	9.3'	18.5'	22.0'
90	9.0'	17.5'	26.0'

All parking stalls shall access directly upon a aisle or driveway of such design as to provide safe and efficient means of vehicular access. All two-way parking aisles must be at least 26 feet in width. Dead end parking aisles of less than 26 feet in width and parking stalls where vehicles must back onto a public street for access are prohibited. No driveway across public property at the right-of-way line of a street shall exceed a width of 30 feet. No loading area shall be counted as a parking stall. Storm water retention or detention is prohibited in a parking lot if the water level for a 100-year rainfall intensity will exceed 6 inches in any part thereof.

M. *Handicapped Parking.* Handicapped parking shall be provided in conformance with the following table:

Total Parking Stalls in Lot	Required Minimum Handicapped Stalls
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

201 to 300	7
301 to 400	8
401 to 500	9
501 and over	2%

The minimum width of handicapped stalls shall comply with State and Federal law. Handicapped stalls shall be located closest to the nearest accessibility entrance on an accessible route. Handicapped stalls may share a common access aisle in order to meet minimum width requirements. Parking signs shall be installed and maintained to identify handicapped parking stalls.

N. *Change In Use.* Whenever the use of any property, or any structure, or part thereof, is changed to another use which requires a greater minimum number of off-street parking spaces, such change in use is prohibited unless additional off-street parking is provided to conform to the minimum requirements.

O. *Location.* Required parking spaces shall be located on the same zoning lot as the use which they serve or within 300 feet of such use provided such off-lot parking spaces are located in the same or a less restrictive zoning district and are located on property which is under the same ownership as the use served or under a lease with a term of not less than 20 years. In the event that such spaces cease to be under such control or cease to be used, then the use on the zoning lot shall be terminated or reduced in conformity with the number of required parking spaces available.

## ARTICLE IX NONCONFORMITIES

### Sec. 25-90. General Provisions.

A. *Purposes.* This Article regulates and limits the continued existence of uses, structures and lots established prior to the effective date of this Code that do not conform to the regulations of this Code applicable in the zoning districts in which such uses, structures and lots are located.

The zoning districts established by this Code are designed to guide the future use of land within the Village by encouraging the development or maintenance of areas with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such districts are established and thus the gradual elimination of such nonconformities is generally desirable.

B. *General Scope and Scheme of Regulation.* Separate restrictions are established for nonconforming uses of land and nonconforming uses of structures designed for a permitted use, nonconforming uses of structures not designed for a permitted use, nonconforming structures, nonconforming lots of record. The degree of restriction made applicable to each category of nonconformity is generally related to the degree of incompatibility with permitted uses and the amount of investment typically associated with nonconformities of that type.

While the regulations of this Article related to nonconformities allow such nonconformities to continue without specific limitation of time, the regulations restrict further investments that would make the nonconformity more permanent, and the eventual elimination of the nonconformity is intended.

C. *Exception for Repairs Pursuant to Public Order.* Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to

be unsafe and orders its restoration to a safe condition, provided such restoration is not otherwise in violation of the various provisions of this Article prohibiting the repair or restoration of partially damaged or destroyed structures.

D. *Nonconforming Accessory Uses and Structures.* No use or structure that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have been terminated, unless it shall thereafter conform to all the regulations of the zoning district in which it is located.

E. *Burden of Owner to Establish Legality of Nonconformity.* The burden of establishing that any nonconformity is lawfully existing under the provisions of this Article XII shall, in all cases, be upon the owner of such nonconformity and not upon the Village.

## **Sec. 25-91. Nonconforming Uses of Land and Nonconforming Uses in Structures Designed for a Permitted Use.**

A. *Authority to Continue.* Except as provided in Subsection I of this Section, any lawfully existing nonconforming use not involving the use of a structure, or involving only a structure that is accessory to a nonconforming use of land, or located in a structure designed for a use permitted in the district in which it is located may be continued so long as it remains otherwise lawful, subject to the regulations contained in Subsections B through H of this Section and in Subsections D and E of Section 25-90 of this Code.

For purposes of this Section, any structure that is used in connection with a nonconforming use of land and that has an assessed value of less than \$5,000 on the effective date of this Code or any amendment hereto creating such nonconformity shall be considered to be a structure accessory to a nonconforming use of land.

B. *Ordinary Repair and Maintenance.* Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring, or plumbing, may be performed on any structure that is accessory to a nonconforming use of land or that is designed for a permitted use but devoted in whole or in part to a nonconforming use; provided, however, that this Subsection shall not be deemed to authorize any violation of Subsections C through I of this Section.

C. *Structural Alteration.* No structure that is accessory to a nonconforming use of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use shall be structurally altered unless the use thereof shall thereafter conform to the use regulations of the zoning district in which it is located. No such alteration shall create a new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. For the purposes of this Subsection, the vertical or horizontal extension of a structure shall be considered to increase the degree of an existing nonconformity related to a required yard or setback.

D. *Enlargement of Structure.* No structure that is accessory to a nonconforming use of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located. No such enlargement shall create any new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. For the purposes of this Subsection, the vertical or horizontal extension of a structure shall be considered to increase the degree of an existing nonconformity related to a required yard or setback.

E. *Extension of Use.* A nonconforming use of land or of a structure that is accessory to a nonconforming use of land or a nonconforming use in a structure designed for a permitted use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activity shall include,

without being limited to:

1. An extension of such use, including its accessory uses, to any structure or land area other than that occupied by such nonconforming use on the effective date of this Code or any amendment hereto that causes such use to become nonconforming, and
2. An extension of such use, including its accessory uses, within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this Code or any amendment hereto that causes such use to become nonconforming, and
3. An extension of the hours of operation of such use beyond the normal hours of operation on the effective date of this Code or any amendment hereto that causes such use to become nonconforming.

F. *Moving.* No structure that is accessory to a nonconforming use of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

G. *Change in Use.* A nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land or a nonconforming use in a structure designed for a use permitted in the district in which it is located shall not be changed to any use other than a use permitted in the zoning district in which the use or structure is located. When such a nonconforming use has been changed to a permitted use, it shall not thereafter be changed back to any nonpermitted use. For purposes of this Subsection G, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a permitted use shall have commenced and continued for a period of five days. Any change of use in violation of this Subsection shall be deemed to be an abandonment of the lawfully existing nonconforming use.

H. *Damage or Destruction.* Any structure that is accessory to a nonconforming use of land or that is designed for a permitted use and devoted in whole or in part to a nonconforming use and that is damaged or destroyed, by any means, to the extent of more than 50 percent of the cost of replacement of such structure new shall not be restored unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located and unless such restoration is accomplished without creating any new parking, loading, bulk, yard, or space nonconformity or increasing the degree of any parking, loading, bulk, yard, or space nonconformity existing prior to such damage or destruction.

When any such structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of 50 percent or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that no repairs or restorations shall be made that would create any new parking, loading, bulk, yard, or space nonconformity or increase the degree of any parking, loading, bulk, yard, or space nonconformity existing prior to such damage or destruction, nor shall any repairs or restoration except in conformity with the applicable zoning district regulations be made unless a Certificate of Zoning Compliance is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with Subsections B, C, and D of this Section.

I. *Termination by Discontinuance or Abandonment.* When a nonconforming use of land not involving a structure or involving only a structure that is accessory to the nonconforming use of land or when a nonconforming use of a part or all of a structure that was designed for a use that is permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of 12 consecutive months, regardless of any intent to resume or not to abandon such use, such use shall

not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.

Any period of such discontinuance caused by government action, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this Subsection.

## **Sec. 25-92. Nonconforming Uses in Structures Not Designed for a Permitted Use.**

A. *Authority to Continue.* Except as provided in Subsection I of this Section, any lawfully existing nonconforming use located in a structure not designed or intended for any use permitted in the district in which it is located may be continued so long as it remains otherwise lawful, subject to the regulations contained in Subsections B through H of this Section and in Subsections D and E of Section 25-90 of this Code.

B. *Ordinary Repair and Maintenance.* Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring, or plumbing, may be performed on any structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located; provided, however, that this Subsection shall not be deemed to authorize any violation of Subsections C through I of this Section.

C. *Structural Alteration.* No structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located shall be structurally altered unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. No such alteration shall create a new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. For the purposes of this Subsection, the vertical or horizontal extension of a structure shall be considered to increase the degree of an existing nonconformity related to a required yard or setback.

D. *Enlargement of Structure.* No structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located shall be enlarged or added to in any manner, including the interior addition of floor area, unless the entire structure and the use thereof shall thereafter conform to all the regulations of the district in which it is located. No such alteration shall create a new parking, loading, bulk, yard, or space nonconformity or increase the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure. For the purposes of this Subsection, the vertical or horizontal extension of a structure shall be considered to increase the degree of an existing nonconformity related to a required yard or setback.

E. *Extension of Use.*

1. *Prohibited Extensions.* A nonconforming use in a structure not designed or intended for any use permitted in the district in which such structure is located shall not be extended, expanded, enlarged, or increased in intensity by:

(a) An extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this Code or any amendment to it that causes such use to become nonconforming; or

(b) An extension of the hours of operation of such use beyond the normal hours of operation on the effective date of this Code or any amendment to it that causes such use to become nonconforming.

2. *Permitted Extensions.* A nonconforming use in a structure not designed or intended for any

use permitted in the district in which such structure is located may be extended throughout any part of such structure lawfully existing on the effective date of this Code or any amendment to it that causes such use to become nonconforming, provided, however, that such extension shall not be allowed unless off-street parking and loading spaces required for such extension can be, and are, provided in accordance with the requirements and restrictions of this Code. No such extension shall be deemed to affect the duty to terminate such use pursuant to Subsection I of this Section.

F. *Moving.* No structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located shall be moved, in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

G. *Change in Use.* A nonconforming use in a structure not designed or intended for a use permitted in the district in which such structure is located shall not be changed to any use other than a nonconforming use of a more restricted classification or a use permitted in the zoning district in which the structure is located. When a nonconforming use has been changed to a more restricted nonconforming use or to a permitted use, it shall not thereafter be changed back to a less restricted nonconforming use. For purposes of this Subsection G, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a more restricted nonconforming use or a permitted use shall have commenced and continued for a period of five days. Any change of use in violation of this Subsection shall be deemed to be an abandonment of the lawfully existing nonconforming use.

H. *Damage or Destruction.* Any structure devoted in whole or in part to a nonconforming use and not designed or intended for any use permitted in the district in which such structure is located that is damaged or destroyed, by any means, to the extent of more than 50 percent of the cost of replacement of such structure new shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located and unless such restoration is accomplished without creating a new parking, loading, bulk, yard, or space nonconformity or increasing the degree of any existing parking, loading, bulk, yard, or space nonconformity of such structure existing prior to such damage or destruction.

When any such structure is damaged or destroyed by any means not within the control of the owner thereof to the extent of 50 percent or less of the cost of replacement of the structure new, repair or restoration of such structure may be made; provided, however, that no repairs or restorations shall be made that would create any new parking, loading, bulk, yard, or space nonconformity or increase the degree of any parking, loading, bulk, yard, or space nonconformity of such structure existing prior to such damage or destruction nor shall any repairs or restoration except in conformity with the applicable zoning district regulations be made unless a Certificate of Zoning Compliance is obtained and restoration is actually begun within one year after the date of such partial damage or destruction and is diligently pursued to completion.

In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with Subsections B, C, and D of this Section.

I. *Termination by Discontinuance or Abandonment.* When a nonconforming use of a part or all of a structure that was not designed or intended for any use permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of 12 consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such structure shall comply with the use regulations of the district in which such structure is located.

Any period of such discontinuance caused by government actions, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this Subsection.

### **Sec. 25-93. Nonconforming Structures.**

A. Authority to Continue. Any nonconforming structure that is devoted to a use that is permitted in the zoning district in which it is located may be continued so long as it remains otherwise lawful, subject to the restrictions in this Section and Section 25-90.

B. Repair, Maintenance, Alterations, and Enlargement. Any nonconforming structure may be repaired, maintained, altered, or enlarged; provided, however, that no such repair, maintenance, alteration, or enlargement shall either create any new nonconformity or increase the degree of the existing nonconformity of all or any part of such structure. For the purposes of this Subsection, the vertical or horizontal extension of a structure shall be considered to increase the degree of an existing nonconformity related to a required yard or setback.

C. Moving. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

D. Damage or Destruction. Any nonconforming structure that is damaged or destroyed, by any means not within the control of the owner thereof, to any extent, may be repaired or restored; provided, however, that no repair or restoration shall be made that would create any new nonconformity not existing prior to such damage or destruction nor shall any repair or restoration except in conformity with the applicable district regulations be made unless a Certificate of Zoning Compliance is obtained and restoration is actually begun within one year after the date of such damage or destruction and is diligently pursued to completion.

In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with Subsection B of this Section.

### **Sec. 25-94. Nonconforming Lots of Record.**

A. Authority to Utilize for Dwellings. In any district in which dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this Code, a dwelling of the type permitted in the district in which the lot is located and that complies with the restrictions of Subsection B of this Section may be erected on a legal nonconforming lot of record that has a total lot area equal to at least 70 percent of the total lot area required in the district in which such lot is located.

B. Regulations for Single Family Use of Nonconforming Lots. A legal nonconforming lot of record authorized to be used pursuant to Subsection A of this Section may be used for a dwelling of the type permitted in the district in which the lot is located and permitted accessory structures, but for no other structure. Construction of such dwelling and accessory structures shall comply with all the regulations applicable to dwellings and accessory structures in the zoning district in which the lot in question is located, except that the following lot area requirements shall apply in place of the lot area requirements otherwise applicable:

1. Total lot area shall equal at least 70 percent of the district requirement for the type of dwelling, and

2. Lot area per unit shall equal or exceed the district requirement, except that one detached single family dwelling may be constructed with only 70 percent of the required lot area per unit.

C. Other Uses of Nonconforming Lots. In any zoning district in which dwellings are not permitted, a legal nonconforming lot of record may be used for any use permitted in the district in which it is located, if, but only if, the development of such lot meets all requirements of the district in which it is located, including floor area ratio and yard requirements, except lot area, width, and depth requirements.



### **Sec. 25-95. Nursing and Personal Care Facility.**

Any nursing and personal care facility which lawfully existed on the date of the passage of this ordinance shall be a legal non-conforming use subject to the provisions of Article IX, Nonconformities. In order to be lawfully existing, the nursing and personal care facility must have a current valid license from the State of Illinois issued under the Nursing Home Care Act.

Because of the effect that such facilities have shown upon neighboring residential areas, the continuation of any legal non-conforming use is subject to the following limitations:

A. There shall be no increase in the number of beds for which the facility is permitted by the Illinois Department of Public Health.

B. There shall be no increase in the number of beds in any category (such as skilled beds, intermediate beds, etc.) for which the facility is permitted by the Illinois Department of Public Health.

C. No new patients shall be admitted under the categories of Aggressive/Anti-Social and Drug Addiction. Any existing patients in such categories may remain, but upon their removal from the facility, no new patient may replace the same if admitted under the above categories.

D. On-site parking requirements shall be not less than one parking place for each three beds for which the facility is permitted by the Illinois Department of Public Health plus one parking space for each member of the staff as determined by taking the most recent total staff (including full-time and part-time) as reported by the Illinois Department of Public Aid and divided by three. To the extent that a facility does not meet this on-site parking requirement, no new patients shall be admitted, even if replacing existing patients who are removed from the facility.

## **ARTICLE X. MEDICAL CANNABIS CULTIVATION AND DISPENSARIES**

### **Sec. 25-100. Purpose and Applicability.**

It is the intent and purpose of this article to provide regulations regarding the cultivation and dispensing of medical cannabis occurring within the corporate limits of the Village of Evergreen Park. Such facilities shall comply with all regulations provided in the Compassionate Use of Medical Cannabis Pilot Program Act, as enacted by the State of Illinois, as may be amended from time to time (the "Act"), regulations enacted pursuant to authority granted through the Act, and the regulations provided herein. In the event that the Act is amended, the more restrictive of the state or Village regulations shall apply.

(Ord. No. 4-2014 § 3, 2-3-14)

### **Sec. 25-101. Procedure.**

Medical Cannabis Dispensing Organizations shall be a special use in the "C" Commercial District and processed in accordance with the provisions of Article VI of the Evergreen Park Zoning Code and this article. No Medical Cannabis Dispensing Organization shall be opened or operated unless specifically authorized under and pursuant to the Act and this Evergreen Park Zoning Code.

(Ord. No. 4-2014 § 3, 2-3-14)

### **Sec. 25-102. Medical Cannabis Dispensing Organization Components.**

In determining compliance with Article VI of the Evergreen Park Zoning Code, the following components of the Medical Cannabis Dispensing Organization shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of other properties in the vicinity:

- A. Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
- B. Proposed structure in which the facility will be located, total square footage, security installations/security plan, and building code compliance.
- C. Hours of operation and anticipated number of customers/employees.
- D. Anticipated parking demand based and available private parking supply.
- E. Traffic generation and adjacent roadway capacity.
- F. Site design, including access points, internal site circulation and commercial vehicle loading, unloading and parking.
- G. Proposed signage plan.
- H. Compliance with all requirements provided in Section 25-104 (Medical Cannabis Dispensing Organization).
- I. Other criteria determined to be necessary to assess compliance with Article VI of the Evergreen Park Zoning Code.

(Ord. No. 4-2014 § 3, 2-3-14)

### **Sec. 25-103. Medical Cannabis Cultivation Center.**

It shall be unlawful to locate or operate a Medical Cannabis Cultivation Center in any residential, commercial, cemetery or open space recreation zoning district in the Village of Evergreen Park.

(Ord. No. 4-2014 § 3, 2-3-14)

### **Sec. 25-104. Medical Cannabis Dispensing Organization.**

In those zoning districts in which a Medical Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

- A. Facility may not be located within 1,000 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home, residential care home or public park.
- B. Facility may not be located within 1,000 feet of the property line for any property used residentially or zoned for a residential use.
- C. Facility may not have drive-thru service.
- D. Facility must be a free standing structure not occupied by any other business or tenant, or used for any other purpose other than a Medical Cannabis Dispensing Organization.
- E. Retail sales occurring within said facility shall be accessory to the facility's intended use as a dispensing organization and shall not occupy greater than 10% of the total square footage of the facility. For purposes of calculating the total square footage dedicated to retail sales, that portion of

the floor area dedicated to the distribution of medical cannabis or medical cannabis infused products shall be excluded from this calculation; all floor area dedicated to the sale of other medical cannabis products and/or paraphernalia shall be included.

F. For purposes of determining required parking, said facilities shall be classified as a "Health Service Office" per Section 25-80 of the Evergreen Park Zoning Code except that the number shall be calculated based on Medical Cannabis Dispensing Organization Agents working on the property, provided, however, that the Village may require that additional parking be provided as a result of the analysis completed through Section 25-102 of this article.

(Ord. No. 4-2014 § 3, 2-3-14)

### **Sec. 25-105. Additional Requirements.**

Petitioner shall install building enhancements, such as security cameras, lighting, or other improvements, as needed or at the request of the Village, to ensure the safety of employees and customers of the Medical Cannabis Dispensing Organization. Said improvements may be required by the Village in excess of those security measures required by the Act.

(Ord. No. 4-2014 § 3, 2-3-14)