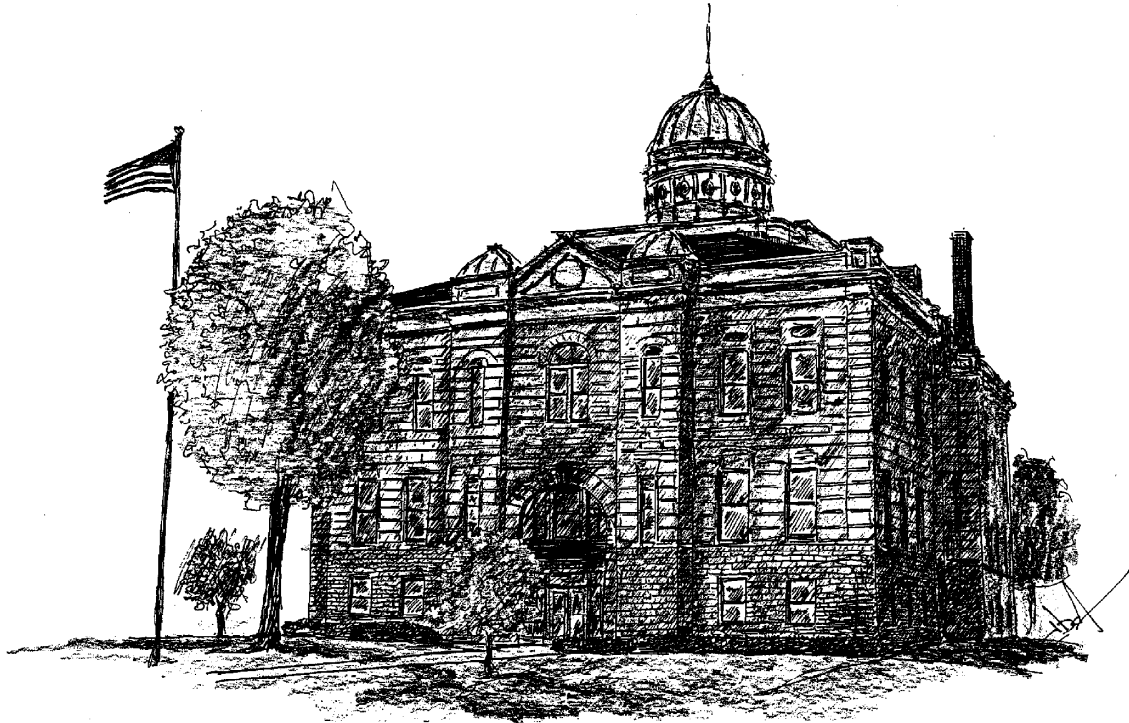


# ZONING ORDINANCE OF MENARD COUNTY



## A Center of Lincoln's Illinois

Adopted: January 1, 1999; Revised: February 27, 2001; Revised: July 30, 2002; Revised: September 10, 2002; Revised: November 26, 2002; Revised: June 24, 2003; Revised: April 13, 2004; Revised: August 10, 2004; Revised: April 26, 2005; Revised: February 28, 2006; Revised: May 30, 2006; Revised: October 3, 2006; Revised: November 28, 2006; Revised: April 10, 2007; Revised: June 26, 2007; Revised: September 25, 2007; Revised: November 13, 2007; Revised: April 29, 2008; Revised: June 10, 2008; Revised: July 30, 2008; Revised: July 14, 2009; Revised: September 8, 2009; Revised: November 24, 2009; Revised: January 26, 2010; Revised: February 9, 2010; August 30, 2011; May 29, 2012; July 10, 2012; April 28, 2015; February 28, 2017

## INDEX

Overview		Page 3-4
Article I		Page 5-6
Article II	Interpretation	Page 7-12
Article III	Definitions	Page 13-36
Article IV	Lots & Yards	Page 37-38
Article V	Off Street Parking Regulations	Page 39-44
Article VI	Establishment of Districts	Page 45-46
§6.03	A-1 District Regulations	Page 47-54
§6.04	RR Rural Residential District Regulations	Page 55-60
§6.05	R-1 District Regulations	Page 61-64
§6.06	R-3 District Regulations	Page 65-68
§6.07	B-1 Downtown Business District Regulations	Page 69-78
§6.08	B-2 Highway Business District Regulations	Page 79-88
§6.09	M-1 Manufacturing District Regulations	Page 89-96
§6.10	PL-Public Lands District Regulations	Page 97-100
§6.11	Planned Unit Development Regulations	Page 101-106
§6.12	Sign Regulations	Page 107-114
§6.13	Mobile and Manufactured Home Regulations	Page 115-116
§6.14	Telecommunications Facilities	Page 117-120
Article VII	Amendments of Regulations & Districts	Page 121-128
Article VIII	Permitting	Page 129-132
Article IX	Non-Conformities	Page 133-136
Article X	Special Use Regulations	Page 137-146
Article XI	Appeals	Page 147-150
Article XII	Variations	Page 151-152
Article XIII	Administration & Enforcement	Page 153-160
Article XIV	Schedule of Fees	Page 161-162
Article XV	Complaints & Penalties for Violations	Page 163

## **An Overview**

Menard County's regional/comprehensive plan is implemented by two ordinances; the zoning ordinance and the subdivision code. The two ordinances regulate different things.

The zoning ordinance regulates the "use" of land. The subdivision ordinance regulates the "division" of land.

The zoning code regulates location of buildings on lots. The subdivision code regulates the creation of lots.

The zoning code requires certain on-site features, like yards and parking areas, in connection with specified uses. The subdivision code enumerates what public streets, utilities and services must be provided to serve newly created lots.

The zoning ordinance divides the county into zoning districts, lists permitted and special uses authorized in each district and establishes bulk regulations that control setbacks, the location of buildings on lots, yards, building height and intensity of use. The subdivision code establishes minimum requirements for lot size, lot shape, block size, block shape, street right-of-way dedication requirements, standards for construction of streets, water supply and distribution systems, septic and sanitary sewer systems, storm sewers and storm water drainage systems, and storm water detention facilities. The code also establishes public land dedication requirements for parks, storm water detention facilities, and schools.

The zoning code recognizes that any use of land impacts the use of adjoining property. Subdivision regulations recognize that when any single piece of land is divided into two or more parts with separate ownership, there is a likelihood that the land will be used more intensively after the division than it was before the division. There will be two or more owners, two or more principal uses, and two or more times the activity associated with the parcel of land than there was prior to the division.

The County's zoning regulations provide a method for public involvement in determining appropriate locations for specific land uses. The County's subdivision regulations provide a method for public involvement when land is divided to insure that the burdens imposed by the activity generated from the subdivision will be born by the subdivider.

Zoning and subdivision codes regulate different things. Each plays an important part in guiding the growth and development of the County.

INTENTIONALLY BLANK PAGE

ARTICLE I

§1.01 TITLE. This ordinance is the zoning ordinance of Menard County. References in this document to “the zoning code”, “the zoning ordinance”, “this code”, or “this ordinance” shall be deemed to be references to the zoning ordinance of Menard County as amended from time to time.

§1.02 SOURCE OF AUTHORITY. This code is adopted pursuant to legislative authorization codified at 55 ILCS 5/5-12001 et.seq. and other applicable statutory provisions.

This code has been adopted as a comprehensive amendment to a previously existing zoning ordinance (ordinance # , originally adopted on \_\_\_\_\_, 19\_\_\_\_). This is not an initial or original zoning ordinance as described in 55 ILCS 5/5-12007, but is an amendment to such an ordinance.

Intergovernmental Relations

Menard County has adopted a comprehensive plan, zoning ordinance and subdivision regulations. Petersburg, Athens, and Greenview have also adopted comprehensive plans, zoning ordinances and subdivision regulations. No other municipality in Menard County has adopted ordinances regulating land use.

The interrelationship between the various governmental land use regulations can be summarized as follows:

1. zoning and subdivision matters within Petersburg, Athens, and Greenview: by Petersburg, Athens, and Greenview exclusively;
2. zoning matters including zoning and occupancy permits in Menard County outside Petersburg, Athens, and Greenview, (including decisions within the corporate limits of any other municipality) by Menard County. Petersburg, Athens, and Greenview have “protest” powers pursuant to Section 55 ILCS 5/5 12014, for zoning matters within 1 ½ miles of their corporate limits;
3. subdivision regulations in Menard County within 1 ½ mile of Petersburg, Athens, and Greenview: both sets of regulations apply. The subdivision must be approved by both the County and the applicable municipality. The higher or more demanding standard applies;
4. subdivision regulations in Menard County more than 1 ½ miles from Petersburg, Athens, and Greenview: by Menard County exclusively;
5. the existence of an annexation agreement (pursuant to 65 ILCS 5/11-15.1-1) does not limit or curtail the rights of Menard County. Such agreements, depending on their provisions, may confer land use authority, by contract, on the municipality where it would not otherwise exist;
6. the County, Municipalities and other units of local government may transfer powers by intergovernmental agreements pursuant to Article 7 & 10 of the Illinois Constitution and 5 ILCS 220/1 et seq.

§1.03 EFFECTIVE DATE. This code is effective January 1, 1999.

§1.04 STYLE. The substantive provisions are set forth in the text of this ordinance. Background, explanatory and illustrative material is set forth in text and drawings that are shaded.

§1.05 PURPOSES. This code is adopted for the following purposes:

- A. to implement the County’s comprehensive/regional plan;
- B. to exercise statutory zoning authority;
- C. to protect and promote the public health, safety, morals, comfort and general welfare;
- D. to protect and promote the “public interest”.

Public Interest

A word about the “public interest”. The County Commissioners are elected representatives of “the people”. Planning Commission and Zoning Board of Appeals members are appointed by elected officials to conduct hearings, make recommendations and in some cases make final decisions on the “public’s” business. The Zoning Administrator is a “public” servant. Zoning regulations, like all laws, are intended to protect and promote the “public interest” – often described as “public health, safety, morals comfort general welfare”.

Who is the “public” and what is the “public interest”?

The landowner is part of the public. The developer is part of the public. Each neighbor is part of the public. An advocate with a particular “cause” is part of the public. But no one individual or group is the public generally. The general public includes those who don’t care about any particular zoning decision and those who trust elected and appointed officials to “protect and promote” their interest without their presence or active participation.

The public interest isn’t determined by counting noses. It is not appropriate to decide land use matters based on the following rationale: “since there is only one developer and fifteen objectors, we’ll go with the objectors”. Unpleasant land uses, if necessary for the general public good, have to be “somewhere” and “somewhere” is generally seen as someone’s backyard. Society needs gravel pits, asphalt plants, landfills, prisons, power plants, inexpensive housing, apartment buildings, mobile home parks and church bells. Certainly, such uses meet a public need but not every proposal needs to be approved. Sometimes the “public interest”, is best served by denying a specific request. The “public “ is all of the people including generations to come, not just those with a vested interest in the particular matter then under consideration. The “public interest” is decision making aimed at fulfilling society’s needs and providing the protection that society generally deserves and expects. Land use decisions often involve a balancing of rights. Land use decisions are not easy.

## ARTICLE II

### §2.01 INTERPRETATION.

- A. In their interpretation and application, the provisions of this code shall be held to be the minimum requirements deemed necessary for the promotion of the public health, safety, and general welfare.
- B. This code is not intended to abrogate any easement, covenant, or other private agreement but if the requirements of this code are more restrictive than such easements, covenants, or private agreements, the requirements of the code shall govern.
- C. The County of Menard does not enforce private deed restrictions, covenants, or agreements through its zoning code.
- D. To the extent that a building, structure or use not lawfully existing at the time of the adoption of this code is in conflict with the requirements of the code, that building, structure or use shall remain unlawful subject to §2.02 A.
- E. Where conditions imposed by any provision of this code are either more or less restrictive than conditions imposed by any other provisions of any other law, ordinance, resolution, rule or regulation applicable to property or to the use of property the regulation which is more restrictive or which imposes the higher standard or requirement shall govern.
- F. If any part or provision of this code or the application of this code to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Menard County Commissioners hereby declare that they would have enacted the remainder of these regulations even without any such part, provisions, or application, which is judged to be invalid.

## §2.02 EXCEPTIONS AND TRANSITIONAL PROVISIONS.

- A. Amnesty Provisions. Prior to the adoption of this code a variety of buildings, structures and uses have been established with the authorization and/or acquiescence of the County in ways that violated or arguably violated the provisions of prior zoning regulations. It is the intent of this code to henceforth consider all such buildings, structures and uses that do not meet the requirements of this code to be lawful but non-conforming under the provisions of this code.
- B. Buildings Under Construction. Where construction of a building has been lawfully commenced prior to the effective date of this code, and provided that construction is diligently pursued, the building may be completed and occupied as originally intended. Such buildings and uses shall be subject to the provisions of this Code pertaining to non-conformities if it is not in conformity with the provisions of this code.
- C. Uses and Structures. The following uses are permitted in all districts: light poles, traffic regulatory signs, directional signs, street name signs, utility poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, railroad right-of-way containing railroad tracts, public rights-of way, gas regulator stations, sewage lift stations, water wells and pumping stations, when located underground.
- D. Height Regulations. The following uses and structure are exempted from the height regulations in this code: appurtenances usually required to be placed above the roof level and not intended for human occupancy such as: church spires, belfries, cupolas, antennas, water tanks, flag poles, public monuments, and ventilators.



## §2.03 REGULATORY PROVISIONS.

It shall be unlawful for any person:

- A. to use or develop or permit the use or development of any property except in compliance with this code;
- B. to cause or permit any contiguous property (public roads, streets, and alleys shall act as a demarcation line for purposes of determining contiguity. - i.e., lots/parcels owned by an entity but located across a public road from a lot/parcel owned by the same entity shall be deemed to be separate and distinct lots/parcels) in common ownership or unified control to be devoted to more than one principal use provided, however:
  - 1. lawful nonconformities involving multiple or mixed principal uses may be continued but not expanded
  - 2. any conforming platted lot may be used or developed for a principal use separate from the principal use of the remaining contiguous property in common ownership or unified control
  - 3. any combination of non-conforming platted lots which create a conforming parcel may be used or developed for a principal use separate from the principal use of the remaining contiguous property in common ownership or unified control.

Common Ownership or Unified Control

Tom and Susie Smith own 3 acres in Tallula. The property lays out as follows:

15	16	17	2.59
----	----	----	------

Smiths acquired lot 15 in 1963, that lot is 50' x 100'. They acquired lot 16 in 1973, that lot is 75' x 100'. They acquired lot 17 in 1973, that lot is 50' x 100' and they acquired a 2.59 acre piece in 1980 when Tom inherited it at the death of his father. Lots 15, 16, and 17 are platted lots. The 2.59 acre piece has never been subdivided and is described by a metes and bounds description. The property is all vacant. The Land is zoned R-1 and single family residential use is permitted on parcels containing 7500 square feet.

Tom and Susie want to build as many houses as they can. What are their options?

- I. The zoning administrator first needs to determine what property is in "common ownership and unified control". The zoning administrator should review title information, tax records, and other information on historical use to make the determination. Assuming the zoning administrator determines that all the property is in common ownership and/or unified control, the following is possible:
  - A. Smiths can use all 3 acres for one principal use;
  - B. Smiths can not use the 2.59 acre parcel alone because it is not a "platted lot" and does not constitute all property in single ownership or unified control;
  - C. Smiths can not use either Lot 15 or 17 alone because they are not "conforming" lots';
  - D. Smiths could use lot 16 alone but to do so they would leave Lot 15 unbuildable; since that lot would not meet the minimum code requirements of the R-1 districts and would not be adjacent to any contiguous property in common ownership or unified control;
  - E. Smiths may use Lot 15 and one-half of Lot 16 and Lot 17 and the remainder of Lot 16 as home sites, each resulting combination of platted lots meets the minimum 60' lot width and 7500 square foot lot size requirements;
  - F. Assuming Smiths sell off lots 15, 16 and 17, they can use the remainder of the property for one additional building site since it represents all remaining contiguous property of an ownership or unified control and is a "conforming" parcel;
  - G. If Smiths can lawfully convey utilizing an "exception to the County's subdivision regulations: the "common ownership and unified control: of the tract will end and the piece conveyed can be used by the new title holder;
  - H. Smiths can "subdivide" under the County's subdivision regulations to create additional "platted lots".

- C. to "develop" property without first obtaining a zoning permit;
- D. to "occupy" newly developed property without first obtaining an occupancy permit;
- E. to use any part of a lot, yard or other open space of off-street parking required in connection with one use for the purpose of causing or attempting to cause another use to comply with this code;
- F. to violate or fail to meet any condition, requirement or prerequisite in the issuance or approval of any special use permit, or variation;

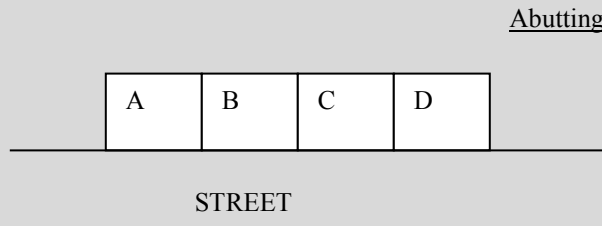
- G. to knowingly submit false, inaccurate, or deceptive material in any complaint, or any application for a zoning permit, occupancy permit, special use permit, variation, appeal, text amendment or map amendment, or in any public hearing conducted pursuant to this code.
- H. To violate any provision of this code.

INTENTIONALLY BLANK PAGE

### ARTICLE III

§3.01 DEFINITIONS. The following words and terms, whenever they occur in this code, shall be interpreted as herein defined:

Abutting (Contiguous, Adjacent). Abutting means have one or more common boundary lines or district lines.



Abutting

A and B, B and C and C and D are “abutting. A, B, C, and D abut the street.

Accessory Building or Use. An accessory building or use is one which:

- a. Is subordinate to and serves a principal building or use;
- b. Is subordinate in area, extent, and purpose to the principal building or use; and
- c. Contributes to the comfort or convenience of occupants of the principal building or use; and
- d. Is located on the same lot or parcel as the principal building or use.

Adult Entertainment. Books, magazines, periodicals, films, videos or live performances which substantially or significantly emphasize:

- a. less than completely or opaquely covered human genitals and pubic regions
- b. human buttocks
- c. female’s breasts below a point immediately above the areola
- d. human male genitals in a discernibly turgid state even if completely or opaquely covered
- e. any act of human masturbation, sexual intercourse and/or sodomy
- f. any fondling or other erotic touching of the human genitals, pubic regions, buttocks, and/or female breasts

by description (oral or written), illustration (still or moving) or performance involving erotic dancers, strippers, male or female impersonators or by other means.

Adult Entertainment Facility. An adult entertainment facility is a business establishment, the principal use of which is the offering of adult entertainment. An adult entertainment facility may or may not offer food and may or may not have a liquor license.

#### Adult Entertainment Facilities

Adult entertainment facilities are not authorized as a permitted or special use in any zoning district in Menard County. Any request for an adult entertainment facility shall require a text amendment by the County Commissioners as provided in Article VII and shall be subject to such other restrictions as may be established by such amendment.

Agricultural Purposes. The growing, harvesting and storing of corn, beans, grains, grasses (including legumes), vegetables, fruits, plants and trees; the raising of livestock; the raising and breeding of game birds and game animals and associated product sales; the growing, developing, processing, conditioning or selling of hybrid seed corn, seed beans, seed oats, or other farm seed but not the excavation of sand, gravel or limestone.

Airport. An airport is any area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

Alteration. Alteration shall mean any change in size, shape, or character of a building or structure or change in the use thereof.

Amusement Center. An amusement center is an establishment, the principal use of which is the operation of mechanical, electronic and/or video type game machines.

Auction House. An Auction House is a building, area, or areas within a building used for the public sale of goods, wares, merchandise, or equipment to the highest bidder.

Automobile Salvage Yard. An automobile salvage yard means an area of land where three (3) or more cars, trucks, buses or other motor vehicles inoperable or unlicensed, or parts thereof in an amount equivalent to three such vehicles, are stored in the open and are not being restored to operation.

Automobile Service Station. An automobile service station means buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. In addition, any of the following services may be rendered and sales made:

- a. Sale and servicing of spark plugs, batteries, and distributors, and distributor parts,
- b. Tire servicing and repair, but no recapping or regrooving;

- c. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- d. Radiator cleaning and flushing;
- e. Washing and polishing, and sale of automotive washing and polishing materials;
- f. Greasing and lubrication;
- g. Providing and repairing fuel pumps, oil pumps, and lines;
- h. Servicing and repair of carburetors;
- i. Emergency wiring repairs;
- j. Adjusting and repairing brakes;
- k. Minor motor adjustments not involving the removal of the head or crankcase or racing the motor.

Activities permissible at an automobile service station do not include aviation sales, automobile sales, boat sales, farm implement sales, house-car trailer sales, mobile home sales, recreation vehicle sales or auto body work, straightening of auto body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in automobile service stations.

Awning. An awning is a roof-like cover, which projects from the wall of a building and overhangs into the yard or public or private street.

Basement. The basement is that portion of a building which is partly below and partly above grade and having at least one-half (1/2) its height above grade.

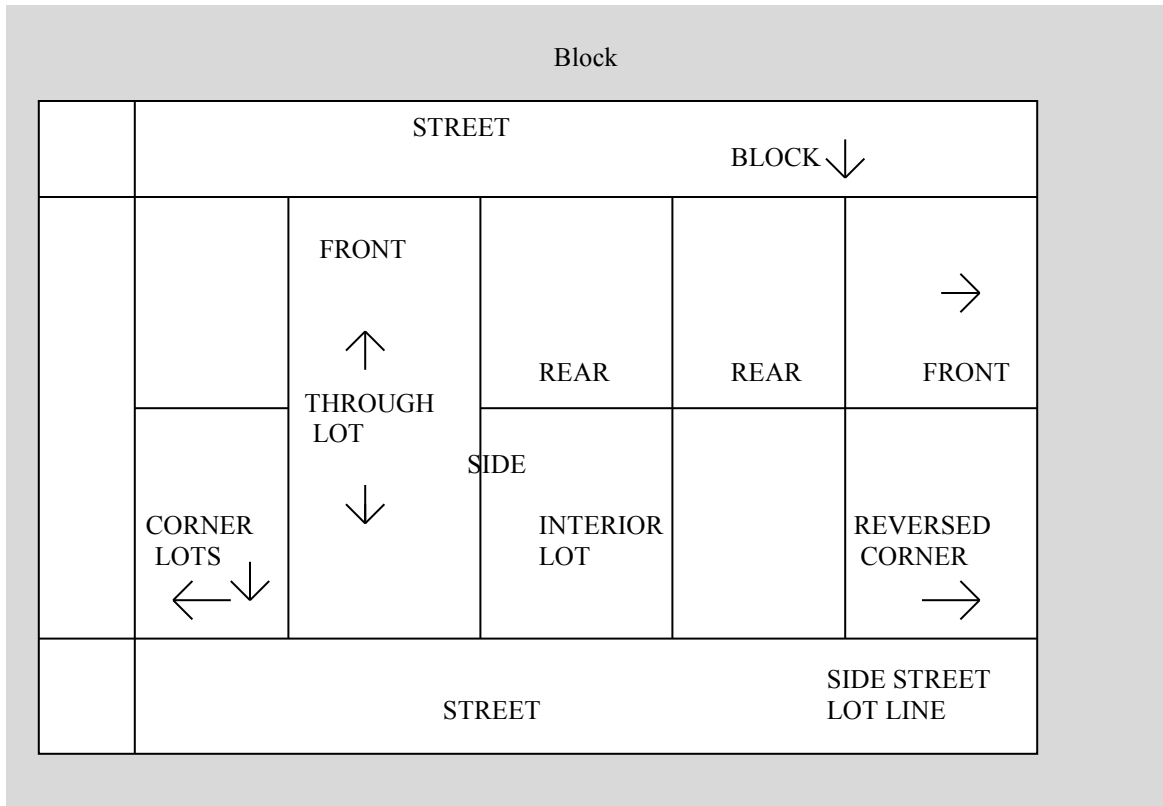
---

See Grade & Cellar

---

Bed and Breakfast. An operator-occupied single family dwelling providing accommodations for a charge to the public with no more than 5 guest rooms for rent, in operation for more than 10 nights in a 12 month period. Breakfast may be provided to the guests only. Bed and Breakfast establishments shall not include motels, hotels, boarding houses, or food service establishments.

Block. A block is a tract of land bounded by public streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or other lines of demarcation.



**Building.** A building is any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the ground

**Building Height.** Building height is the measurement of vertical distance from grade to the top of the highest roof beams of a flat roof or to the mean level of the highest gable or slope or a peaked roof. When a building faces on more than one street, the height shall be measured from the average of the grades abutting each street.

see Grade

**Building, Principal.** A principal building is a building in which the principal use of the lot, on which it is located, is conducted.

**Building, Residential.** A residential building is a building which is arranged, designed, used as intended to be used for residential occupancy by one or more persons and which included, but is not limited, to the following types:

- a. Single-family detached dwellings.
- b. Modular dwellings.
- c. Mobile home dwellings.
- d. Two-family dwellings



- e. Multiple-family dwellings.
- f. Group homes.
- g. Rooming houses.
- h. Nursing homes.

Bulk. Bulk is a term used to measure, assess, and regulate the impact of buildings, structures or land uses on other nearby buildings, structures or land uses and includes the following factors:

- a. Size and height of buildings;
- b. Location of exterior walls and required on-site facilities at all levels in relation to lot lines, public streets, or to other buildings;
- c. Gross floor area of buildings in relation to lot area (floor area ratio);
- d. All open spaces allocated to buildings or uses;
- e. Amount of lot area provided per use;
- f. Type, amount and location of landscaping and site screening used to shield or reduce the impact of land uses on surrounding property; and
- g. Regulations of building based on slope and/or proximity to flood plains or flood ways.
- h. Time limitations for which land and/or structures can be considered legal, non-conforming uses.

#### Variation of “Bulk” Regulations

“Bulk” is a term that is of particular relevance to variations (§12.01 et seq.). Variations may modify the “Bulk” regulations required in a particular zoning district for a particular use but only in the manner and subject to the standards established by this code. It is “bulk” regulations that may be relaxed through the use of the variation procedure.

Car Wash. A car wash is a building or portion thereof, containing facilities for washing motor vehicles, using automatic production-line methods with conveyors, blowers, steam cleaning, or other mechanical devices; or providing space, water, and equipment for the hand washing of autos, whether by the customer or the operator.

Carport. A carport is an automobile shelter, usually formed by extension of the roof from the side of a building and enclosed on not more than two (2) sides by a wall.

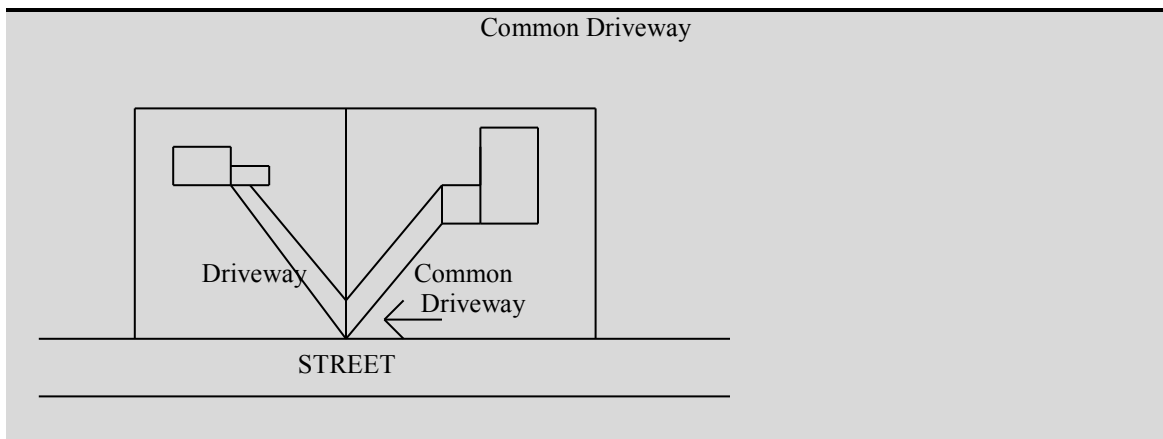
Cellar. A cellar is that portion of a building which is partly or completely below grade and having at least one-half (1/2) of its height below grade.

---

See Grade & Basement

---

Common Driveway. A common driveway is a driveway serving two or more structures or off-street parking areas, which are located on individual lots.



Compatible Use. A compatible use is a property, use, or service which is capable of direct association with certain other uses because it is complimentary, congruous, and otherwise not detrimental.

Conforming. A lot, building or use that meets or exceeds the minimum requirements of the applicable zoning district.

Conforming Building or Structure. A conforming building or structure is any building or structure which complies with all the regulations of this zoning code or of any amendment hereto governing bulk for the zoning district in which such building or structure is located.

Conforming Use. A conforming use is a use which complies with all of the regulations of the zoning code or any amendment hereto for the zoning district in which such use is located.

Construction. Construction means the act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot.

Convenience Store. A retail establishment that is primarily engaged in retail dealings in goods required by the inhabitants of a residential district to meet their day-to-day needs, which articles for sale are restricted to a limited range of primarily food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy, meat, and to complement such items may include the limited sale of magazines, books, gasoline, housewares, toiletries, stationary, tobacco products and alcoholic beverages for consumption off the premises.

Day Care Center. A Day Care Center is a premise receiving more than eight (8) individuals for care during part of a day or night. As used herein the term individual does not include the operator(s) of the Day Care Center.

---

see Family

---

Day Care Home. A day care home is a dwelling unit in which one (1) or more persons provides care for part of the day or night to not more than eight (8) individuals, excluding the members of the family residing in the dwelling unit.

---

see Family

---

Demolition. Demolition means any act or process that destroys in part or in whole a building or structure.

Develop. To develop means to:

- a. change the principal use of property, or
- b. construction of any structure

District. (Zoning District) A district is a portion of the territory of Menard County within which certain generally uniform regulations and requirements unique thereto, apply under the provisions of this code.

Driveway. A driveway is a private access way for motor vehicles between a public or private street and one or more structures or off-street parking spaces.

---

see Common Driveway

---

Dwelling. A dwelling is a building designed or used principally for residential occupancy, including, without limitation, single-family dwellings, two-family dwellings, multiple-family dwellings and group home.

---

see Family

---

Dwelling, Multiple-Family. A multiple-family dwelling is a building containing three (3) or more dwelling units.

---

see Family

---

Dwelling, Single-Family. A single-family dwelling is a building containing one (1) dwelling unit only.

---

see Family

---

Dwelling, Two-Family. A two-family dwelling is a building containing two (2) dwelling units only.

---

see Family

---

Dwelling Unit. A dwelling unit is one or more rooms arranged or designed for the use of one family living together as a single housekeeping unit with cooking, living, sanitary and sleeping facilities in a self-contained unit, so that access to the street and any additional facilities (such as laundry, heating units, etc.) can be gained without passing through any other residential or commercial unit.

---

see Family

---

Dwelling Unit, Mobile Home. A mobile home dwelling unit is a dwelling unit or vehicular, portable design built on a chassis and designed to be moved from one site to another and capable of being used without a permanent foundation built to standards promulgated by the U.S. Department of Housing and Urban Development.

---

see Family

---

Dwelling Unit, Modular. A modular dwelling unit is a factory fabricated, transportable building, designed to be used by itself or to be incorporated with similar units at a building site into a dwelling. The term is intended to apply to major assemblies and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated sub elements, which are to be incorporated into a structure at the site. Modular units are built to meet or exceed the current standards of the B.O.C.A. Building Code or equivalent.

---

see Family

---

Efficiency Unit. An efficiency unit is a dwelling unit consisting of one principal room together with bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room.

---

see Family

---

Excavation. An excavation is any breaking of ground, except common household gardening, ground care and agricultural use.

Family. A family is either one (1) person or two (2) or more persons each related to each other by blood, marriage, or legal adoption, any foster children residing with such person or persons in a “foster family home” as that term is defined in the Illinois Child Care Act of 1969, as amended, and an aggregate of not more than two (2) roomers or boarders not related to each other, whether or not gratuitous, maintaining a common household in a dwelling unit; or a group of not more than six (6) persons not so related maintaining a common household in a dwelling unit. However, in no case shall more than two (2) unrelated individuals occupy an efficiency unit or one (1) bedroom dwelling unit.

## Family and Occupancy Limitations

How many people can be accommodated:

- A. In a family-any number of people related by blood, marriage or adoption, any foster children and up to two other unrelated individuals (roomer, boarder, household guests, staff, domestic help, etc.) or
- B. Two unrelated individuals in an efficiency or one bedroom dwelling unit, and six unrelated individuals in any other dwelling unit (including any adopted or foster children, roomer, boarder, household guest, staff domestic help, etc).

In a dwelling unit – one family

In a single family dwelling – one family

In a two family dwelling – two families or one in each dwelling unit

In a mobile home dwelling unit – one family

In a modular dwelling unit – one family

In an efficiency unit – one family

In a multiple family dwelling – one family per dwelling unit

In a group home – up to six unrelated individuals including any in-resident or nor-resident staff

In a hotel or motel – transient guests

In a day care home – up to eight individuals for part of the day or night excluding members of the resident family

In a day care center – more than eight individuals for part of the day or night including the operators or the day care center

Farm. Land principally devoted to agricultural purposes.

Fence. A fence is a structure which is a barrier and is used as a boundary, screen, separation, means of privacy, protection or confinement and is constructed of wood, plastic, metal, wire mesh, masonry, or comparable material.

Floor Area. Floor area is the sum of the gross horizontal area of several floors of the building excluding areas used for:

- a. Accessory off-street parking.
- b. Basement or cellar areas devoted exclusively to storage and not open to the public.

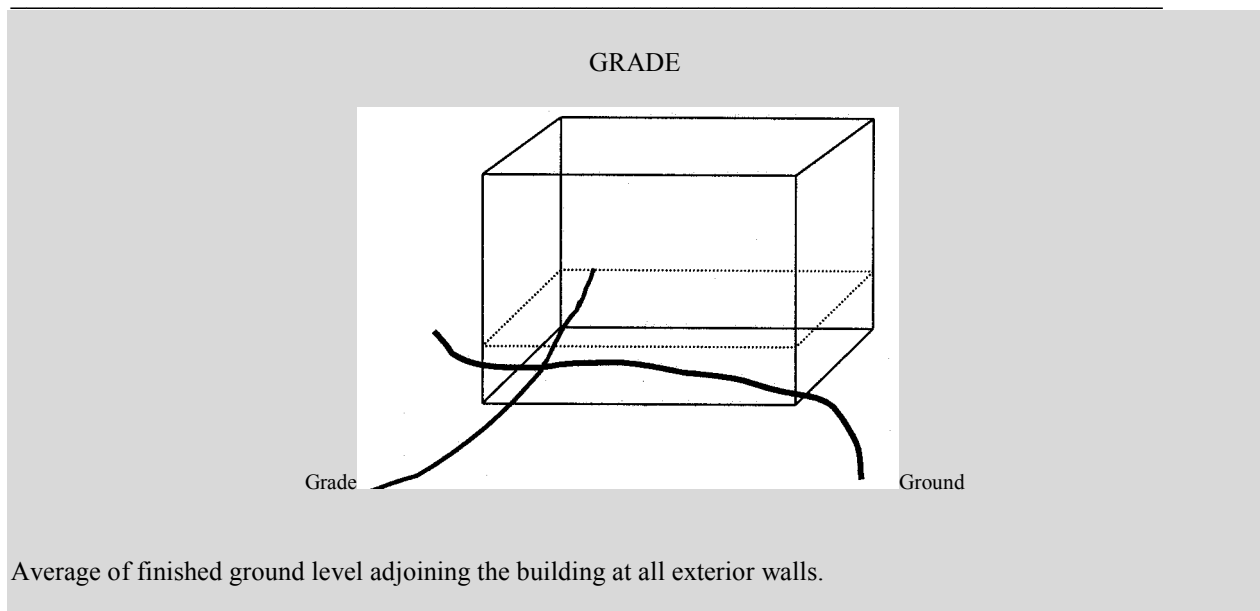
All horizontal dimensions shall be taken from the exterior faces of the walls or from the centerline of walls separating two dwelling units or two buildings.

Floor Area Ratio. Floor area ratio is the numerical value obtained by dividing the floor area of a building or buildings by the lot on which the building is located.

Frontage. Frontage is the measure of lineal contiguity between a lot or portion thereof and another lot, public street, alley or public way.

Garage, Private. A private garage is an accessory building or an accessory portion of a principal building, including a carport, the principal use of which is the storage of one or more motor vehicles of the person, family or families resident in the principal building to which the garage is accessory and in which no business or commercial service or activity is performed, provided however, if a private garage is of sufficient size to provide, within the garage, all the off-street parking required by the Zoning Ordinance for the principal use, then any extra or surplus space may be rented for a fee to persons not resident in the principal building to which the garage is accessory, which such space may be used for the principal purpose of storing boats, trailers, recreational vehicles and/or private passenger motor vehicles.

Grade. A reference plane representing the average of finished ground level adjoining the building at all exterior walls.



Group Home. A group home is a dwelling unit occupied by up to six (6) persons not related by blood, marriage, or legal adoption maintaining a common household including any in resident or equivalent of in-residence staff.

---

see Family

---

Home Occupation. A home occupation is an occupation or profession practiced by a member of the family residing in the dwelling unit and which occupation is clearly an accessory use to the

principal residential use of the dwelling unit or the principal use of a farm in which a residential dwelling is located and meets the following standards:

- a. Such home occupation shall be conducted entirely within a dwelling unit or otherwise authorized accessory buildings;
- b. The total floor area devoted to such use shall not exceed twenty-five (25) percent of the gross floor area of the dwelling unit and no more than twenty-five (25) percent of the gross floor area of any story shall be devoted to such use. Any authorized accessory building in which home occupation activities are conducted shall not exceed 2,500 square feet;
- c. There is no sign, other than a nameplate not more than one (1) square foot in area, no other display and no activity that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than residential or accessory building purposes;
- d. There are no commodities sold or services rendered that require receipt and delivery of merchandise, goods or equipment by other than personal motor vehicle, ordinary mail, UPS, Federal Express or comparable commercial carrier utilizing panel truck delivery vehicles;
- e. There is no person other than members of the family residing in the dwelling unit employed or otherwise engaged in such home occupations;
- f. A professional person may use his dwelling for consultation or performance of religious rites;
- g. An instructor of piano lessons in the home shall be permitted to instruct up to, but not more than five (5) pupils at a time, using not more than two pianos, and instructors of other musical instruments and dance shall be limited to one (1) pupil per lesson in the home. All other home occupations shall be restricted to no more than twenty (20) customers in the home or allowable accessory building. A photographer for hire shall be allowed to photograph customers outdoors, provided the activity is conducted on property in which the photographer owns and resides, and meets other home occupation standards set forth herein;
- h. A person may use his dwelling or accessory building for sales to the public if such sales activity is conducted in the home or allowable accessory building and meets the other regulations set forth herein for home occupations;
- i. Garage sales may be conducted as a home occupation, provided no more than three (3) sales are held per year at any one residence, and such sales last no more than twelve (12) days per year;

- j. Home occupations located on lots containing twenty (20) acres or more shall be allowed to provide a maximum of five (5) parking spaces for customers/clients.

Hotel (Motel). A hotel is an establishment which is open to transient guests, in contradistinction to a rooming house, and is commonly known as a hotel (motel) in the community in which it is located; and which provides customary hotel services such as mail service, the furnishing and laundering of linen, telephone service, the use and upkeep of furniture and desk service.

Junk Yard. A junk yard is an open area where junk, waste, scrap, used equipment and vehicle parts, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, or handled, including but not limited to scrap iron and other metal, paper, rags, rubber tires and bottles. A junkyard included automobile wrecking or salvage yards, house wrecking or salvage yards, used lumberyards and places or yards for storage of salvaged structural steel materials and equipment, but does not include uses established entirely within enclosed buildings.

Kennel. A kennel is any premise where three (3) or more dogs, three (3) or more cats, or three (3) or more other household domestic animals are owned, boarded, bred or offered for sale, provided such dogs, cats or other household domestic animals are over six (6) months of age.

Landscaped (Landscaping or Landscaped Condition). Landscaped shall mean an area planted and maintained in grass, shrubs, bushes, trees or flowers.

Lawn and Garden Equipment Storage Shed. A structure often purchased pre-built or as a kit in pre-fabricated sections. It is not served by heat, electricity or plumbing and is not placed on a permanent foundation. The structure is intended to store lawn; garden and/or pool care equipment.

Livestock. Domesticated horses, cattle, llamas, chickens, turkeys, ostrich, peacock, sheep, and swine. Livestock does not include dogs, cats, fish, other birds, reptiles, mink, fox, or other fur bearing or wild animals.

Lot. A lot is a platted lot or a parcel occupied, or intended to be occupied, by a main building or a group of buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required under the provisions of this code, or as may be provided therewith.



## “How To Describe Land”

Land is described in a variety of ways. In some instances, its description is based on ownership; in some cases, on use and, in some cases, on the extent of “governmental” involvement leading to the creation of the description. The Menard County Zoning Ordinance uses a number of terms to describe land and its ownership.

The most general term is “property”. That term is defined as “real property or any interest in real property”. Individual ownership, joint tenancy, tenancy in common and tenancy by the entirety are terms used to describe ways in which property is titled. Those terms don’t have much relevance to the zoning ordinance. Fee simple, life estates, remainder interest, easements, and licenses are terms used to describe a “quality of ownership”. Those descriptions also don’t have much relevance to a zoning ordinance. The terms “parcel”, “lot of record”, “platted lots”, “outlot”, and “lot”, are terms that describe governmental involvement prior to the creation of the description. These are important terms the meaning of which needs to be understood.

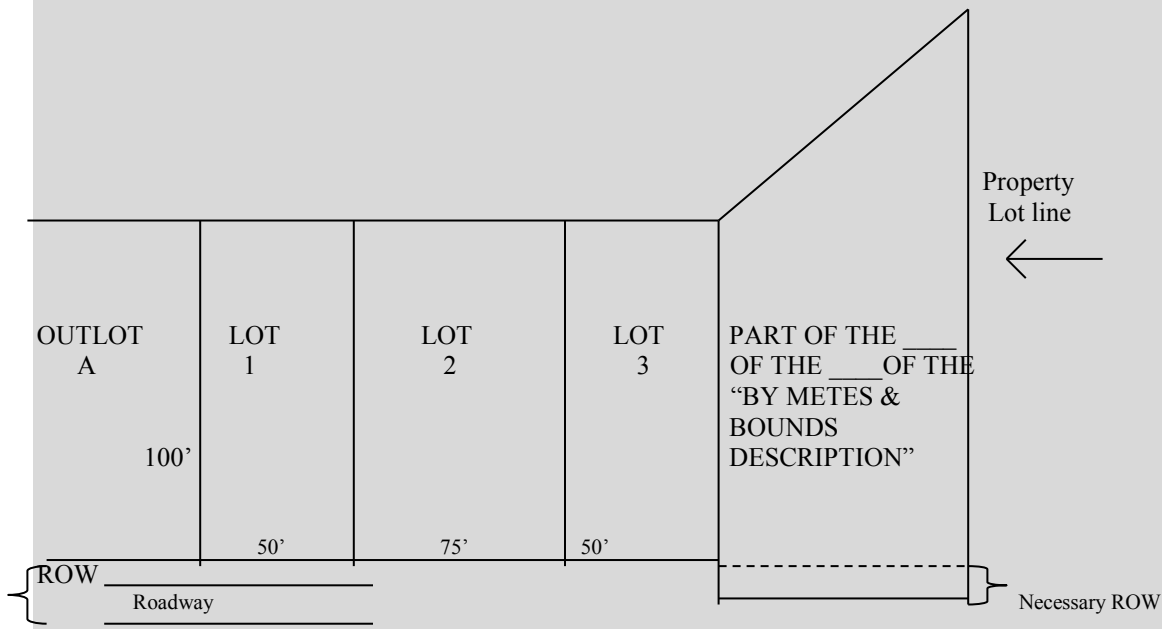
If land has not been subdivided and a final subdivision plat recorded, the description of a piece of property is usually by a metes and bounds description and the tract is referred to as a “parcel” in the Menard County Zoning Ordinance.

If land has been subdivided and a final subdivision plat recorded, an individual piece of property that results from the subdivision and can therefore be lawfully conveyed is either a lot of record (or platted lot) or an outlot. Lots of record (or platted lots) are buildable (outlots are not buildable).

“Lot” is a term that includes both “parcels” and “lots of record” (or “platted lots”). The term “lot” is ordinarily used to describe a piece of property devoted to a single principal use.

The phrase “unified ownership or control” is used to describe parcels acquired at separate times by the same controlling entity. Menard County’s subdivision regulations and this code prohibit property “in unified ownership or control” from being resold into separate ownership without being subdivided or from being used or developed for multiple separate principal uses unless such a division is authorized as an exception to the subdivision code or multiple use is authorized by this code.

Parcels, Lots, Lots of Record, Platted Lots and Outlots



Parcel – 1, 2, 3, and part of \_\_\_ 1/4 are parcels

Lot – 1, 2, 3, and part of \_\_\_ 1/4 are lots

Platted lot or “lot of record” – 1, 2, and 3 are platted lots or lots of record

Non-conforming lot – in the R-1 single family district, lot 1 and 3 are non-conforming as to lot width and lot area

Outlot A is an outlot

Lot, Area. Lot area is the area of a horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

Lot, Corner. A corner lot is a lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Lot, Non-Conforming. (See Non-Conforming Lot)

Lot, Platted. A piece of property described as a lot in a recorded final subdivision plat.

Lot, Reversed Corner. A reversed corner lot is a corner lot the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

see Block

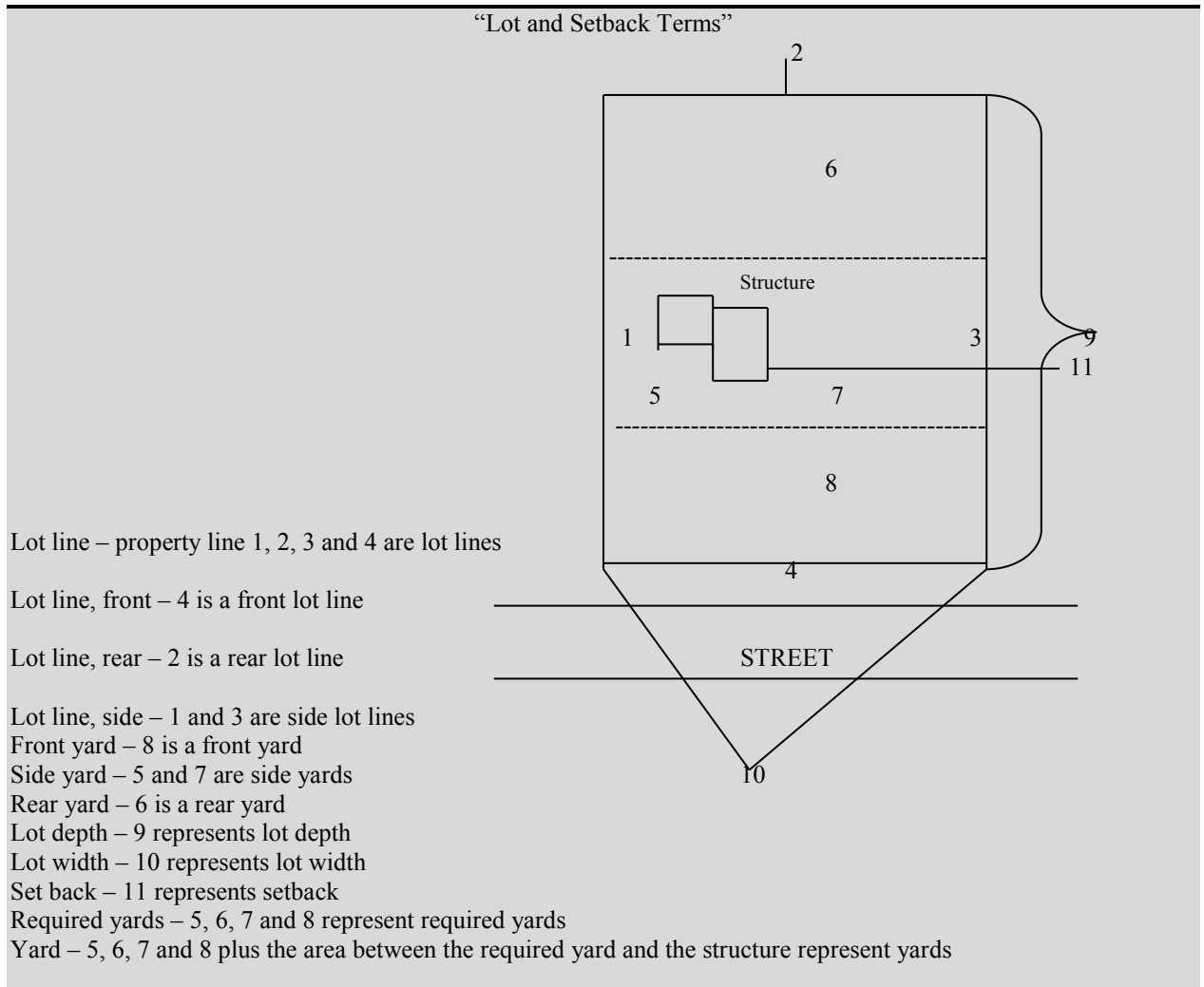
Lot, Through. A through lot is a lot having a pair of opposite lot lines along two (2) more or less parallel public streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

see Block

Lot, Interior. An interior lot is a lot other than a corner or reversed corner lot.

see Block

Lot Depth, Minimum. The lot depth is the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.



Lot Width, Minimum. Minimum lot width is the mean horizontal distance between the side lot lines of a lot, measured within the lot boundary. Lot width is measured at the front lot line or at the required setback line or cul-de-sac within the lot boundary behind the required front yard setback line.

Lot Line. A lot line is a boundary line of a lot excluding all proposed and one-half of all necessary right-of-way.

---

See Setback and Necessary Right-of-Way

---

Lot Line, Front. The front line is that boundary line of any lot which is along a dedicated public street or the occupation line on a non-dedicated public street. On corner lots the front lot line shall be the boundary line along such street right-of-way line that is established at the time of application for a zoning permit- the other line abutting the other street shall be a sideline.

Lot Line, Rear. The rear lot line is that boundary of a lot which is most distant from and is, or is approximately parallel to the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from, the front lot line.

Lot of Record, (Platted Lot). A lot of record or platted lot is part of a subdivision lawfully approved and recorded in the office of the Menard County Recorder of Deeds shown referenced or described as a numbered lot in the subdivision.

Lot Line, Side. The side lot line shall be any boundary of a lot, which is not a front lot line or a rear lot line.

Major Recreational Equipment. Major recreational equipment shall include travel trailers (a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational or vacation uses, or one permanently identified as a Travel Trailer by the manufacturer of the trailer); Pick-up Coach (a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation); Motor-home (a portable temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle); and Camping trailer (a canvas, material or metal folding structure, mounted on wheels, and designed for travel, recreation and vacation use); boats, trailer and snowmobiles.

Mobile Home Park. A mobile home park is a lot or lands upon which two (2) or more mobile home dwelling units are harbored and shall include any buildings, structure, tent vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park.

Nameplate. A nameplate is a sign indicating the name and address of a building or the name of an occupant thereof and/or the practice of a permitted occupation therein.

Necessary Right-of-Way.

A. 100' for the following roads:

Illinois Route 97  
Illinois Route 123  
Illinois Route 29  
Middletown Blacktop Avenue (C.H. 1)  
Athens Blacktop Road (C.H. 2)  
Fancy Prairie Avenue (C. H. 11)  
Gudgel Avenue (C.H. 4)  
Newmansville Avenue (C.H. 6)  
East Oakford Avenue (C.H. 7)  
Fairgrounds Street (C.H. 7)  
Sweetwater Avenue (C.H. 10)  
Peoria Street (C.H. 10)  
Quarry Avenue (C.H. 11)  
West Oakford Avenue (C.H. 12)  
Atterberry Street (C.H. 13)  
Post Street (C.H. 14)  
Curtis Blacktop Road (C.H. 16)  
Altig Bridge Avenue (C.H. 17)  
Rahman Street  
Lower Salt Creek Street (TR 120)  
Hubly Street  
Levee Street

And any other road designated as a “principal arterial” or “major” street or highway in Menard County’s Comprehensive Plan.

B. 80' for the following roads:

Five Points Street (C.H. 5)  
Rock Creek Avenue (C.H. 5)  
Oakland Cemetery Street (C.H. 9)  
Sunny Acres Road (C.H. 15)  
Chautauqua Road (C.H. 15)  
Golf Course Avenue (TR 103)  
Reimer Avenue (TR 119)  
State Park Road (TR 119)  
Peoria Street (TR 186)(South of Sweetwater Avenue)  
Harrison Avenue (TR 85)  
Kelly Street (TR 66)(South of Illinois Route 97)

And any other road designated as a “minor arterial” or collector street, or highway, in Menard County’s Comprehensive Plan.

C. 60' for any other street or road in the County

which Right-of-way in each case, shall be centered on the centerline of the abutting roadway or, if none, the property line.

Non-Conforming Building or Structure. A non-conforming building or structure is any building or structure or portion thereof lawfully existing at the time of adoption of the Ordinance, or amendment thereto, which does not comply with all the regulations of this Ordinance or any amendment hereto governing bulk for the zoning district in which such building or structure is located.

Non-Conforming Lot. A non-conforming lot is a lot of record which when recorded met the minimum lot area and other dimension requirements of the applicable zoning ordinances of Menard County, but which through subsequent amendments to such Code or other acts of a public body has caused the lot of record to be in conflict with the minimum lot area or other dimension requirements of this code.

Non-Conforming Use. A non-conforming use is any use of land, buildings, or structures which such use is located, but which use was permitted at the time such use was established.

Nursery (Greenhouse). A nursery is a space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for wholesale, or retail sale on the premises, including products used for gardening or landscaping. The definition of nursery within the meaning of this Code does not include any space, building, or structure used principally for the sale of fruits, vegetables, or Christmas trees.

Nursing/Retirement Home. A nursing home is a home for the aged, chronically ill, incurable persons or a place of rest for those suffering bodily disorders in which three (3) or more persons, not members of the immediate family residing on the premises, are received, kept or provided with food and shelter or care, but not including group homes, hospitals, clinics, or institutions devoted primarily to the diagnosis and treatment of disease, illness or injury.

Office. An office is a building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, financial institution, or place of public assembly.

Official Comprehensive Plan (Comprehensive Plan, Regional Plan). The Official Comprehensive Plan is the composite of the functional and geographic elements of the Comprehensive Plan of Menard County in the form of plans, maps, charts, textual materials and the official map, as adopted by the County Board.

Official Map. The Official Map is the map adopted by the County Board as a part of the Comprehensive Plan which is designated "Official Map" in that Plan.

Official Zoning Map. The Official Zoning Map is the map adopted by the County Board showing all the zoning district boundaries within Menard County, Illinois.

Open Sales Lot. An open sales lot is any land used or occupied for the purpose of buying and selling merchandise, motor vehicles, any form of trailers, mobile homes, motorized homes, motor scooters, motorcycles, boats, aircraft and monuments, or for the sorting of same prior to sale.

Outlot. An outlot is a part of a subdivision lawfully approved and recorded in the office of the Menard County Recorder of Deeds which is shown, referenced or described as a numbered or lettered outlot(s). Outlot (s) can be conveyed but are not buildable lots for zoning purposes.

Parcel. Any property in a contiguous ownership and unified control that is not a platted lot or an outlot.

Parking Space. A parking space is an off-street parking area adjacent to a driveway which provides the parking for a single motor vehicle.

Planning Commission. The Regional Planning Commission of Menard County created and empowered pursuant to ILCS 5.5-14001 et. seq.

Principal. Principal means main, primary or predominated use.

Principal/Accessory Uses. For zoning purposes every “lot” has only one “principal use”. It may have multiple buildings and accessory uses, but only one “principal use”. For example, the principal use of a 30-acre farm is ordinarily agricultural production. The farm may have multiple buildings, homes, barns, storage sheds, silos, etc. and may be used in various “accessory ways”, i.e. as a residence, as a business, etc.

The principal use of a 4-acre homesite is ordinarily residential. The home site may have multiple buildings, a house, a garage, etc. and may have various accessory uses such as a house, home occupation, outside storage and parking spaces.

Zoning regulations and the permitting requirements of this code are triggered by a change in principal use, i.e. from agricultural to residential or commercial or construction (a term defined to include both new construction and the alteration of existing structures).

When development occurs, zoning and occupancy permits need to be obtained.

Property. Property means real property or any legal interest in real property.

Property line. Property line means the boundaries of a lot.

Recyclable Material(s). Reusable material including but not limited to metals, glass, plastic and paper which are intended for reuse, remanufacture or reconstitution for sale or reuse. Recyclable material does not include refuse or hazardous materials.

Recycling Facilities. Structures or a portion of premises used for the collection and/or processing of recyclable material(s) that are not visible to the public from ground level nor meet the definitional criteria of an automobile salvage yard or junk yard, as defined herein.

Removal. Removal means any relocation of a structure on its site or to another site.

Repair. Repair is any change that is not construction, removal, or alteration. This would include simple and minor mending to bring an element of a structure back to its original condition. It assumes that minimal expense and effort need be incurred to complete the repair.

Restaurant. A restaurant is a business establishment of any food for consumption on the premises. A restaurant may or may not have a liquor license. A restaurant may not offer adult entertainment.

Riding Stables. A riding stable is the grounds and building where horses are bred, raised, boarded or kept for remuneration, hire, or sale.

Roadside Market. A roadside market is a structure for the display and sale of agricultural products grown on the site only, with no space for customers within the structure itself.

Rooming House. A rooming house is any residential building, or any part thereof, containing one (1) or more rooming units, in which space is let by the owner or operator to seven (7) or more persons who do not constitute a family.

Rooming Unit. A rooming unit is any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Row House (Town House). A row house (town house) is a multiple-family dwelling containing three (3) or more attached dwelling units, each on its own plot of ground and joined to one (end unit) or two (interior units) dwelling units by firewalls. Each dwelling unit shall occupy the internal space from the ground to the roof.

Setback. Setback is the horizontal distance between the front lot line and any building or structure located on such lot.

---

See Lot Line, Front and necessary Right-of-Way

---

Sign. A sign is any identification, description, illustration of device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, printing, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national, state, county, municipal and religious flags.



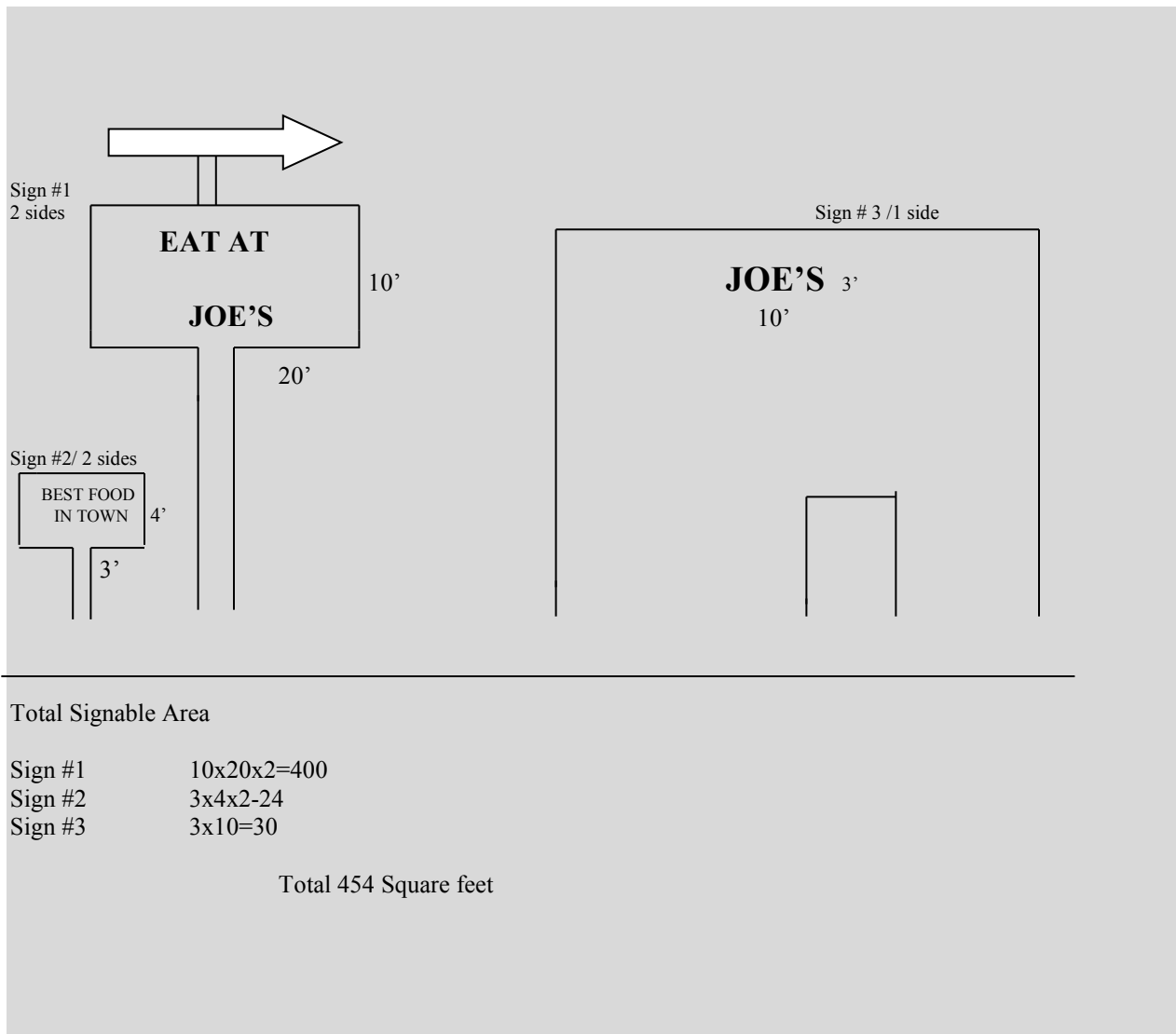
Sign – Off Premises. A sign, the content of which pertains to a product, service, place, activity, person, institution, business or solicitation located on the property other than the property in which the sign is located.

Sign – On Premises. A sign, the content of which pertains to a product, service, place, activity, person, institution, business or solicitation located on the same property on which the sign is located.

Signable Area. Signable area is measured by:

- a. enclosing each face of each sign (excluding any standard) in a rectangle with two sides parallel to the ground;
- b. computing the number of square feet in each rectangle;
- c. compute the total number of square feet in all rectangles.

### SIGNAGE EXAMPLE



Special Use. A special use is a specific use of land or buildings, or both, described and permitted by the Code, subject to special provisions and which because of its unique characteristics cannot be properly classified as a permitted use.

Story. A story is that portion of a building included between the upper surface of the floor and upper surface of the floor or roof next above. A basement shall be counted as a Story, and a cellar shall not be counted as a Story, unless it contains a dwelling unit.

Street, Public. A public street is a dedicated and accepted public right-of-way or other public way used and maintained by the County of Menard or public road district which, in either case, affords the principal means of access to adjacent lots or property.

Streets, Private (easement of access). A private street is a privately owned lane, road, or street, which affords the principal means of access to adjacent property.

Structural Alteration. A structural alteration is any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations. Structural alteration may constitute development.

Structure. A structure is anything constructed or erected, the use of which requires permanent or temporary location or in the ground including, but not limited to, buildings, fences, gazebos, signs, billboards, supporting tower, and swimming pools.

Subdivision Identification Sign. A freestanding sign identifying a recognized subdivision, apartment or condominium complex or residential development.

Tavern, (Bar, Cocktail Lounge, Night Club). – A tavern is a business establishment, the principal use of which is for the sale of alcoholic beverages for consumption on the premises. A tavern may or may not offer food. A tavern may not offer adult entertainment.

Use. (N). The purpose to which property is devoted or for which it is occupied or maintained.

Uses. (V). To devote property to a purpose.

Use, Permitted. A permitted use is a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and regulations of such district.

Variation. A variation is a minor deviation from the bulk requirements of this ordinance where such variation will not be contrary to the public interest and where, do to conditions peculiar to the property and not the direct result of the actions of the owner, a literal enforcement of this ordinance would result in unnecessary hardship.

Warehouse. A warehouse is a structure, part thereof, or area used principally for the storage of goods and merchandise.

WECS Project. The collection of WECS's and substations as specified in a Special Use Permit application pursuant to this Ordinance.

WECS Tower. The support structure to which the nacelle and rotor are attached.

WECS Tower Height. The distance from the rotor blade at its highest point to the top surface of the WECS foundation.

Wholesale Establishment. A wholesale establishment is a business establishment engaged in selling to retailers or jobbers rather than consumers.

Wind Energy Conversion System (WECS), Private. All necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation, transformer and electrical cabling from the WECS tower to the substation(s), where the aggregate generating capacity is 3 megawatts (MW) or less, and the WECS is located on private property for the use of the owner of the property on which the WECS is to be located and the towers and blades are painted white or gray or another non-reflective, unobtrusive color and complies with any applicable Illinois Pollution Control Board (IPCB) noise level regulations.

Yard. A yard is an open space, on the same lot with a building or structure, unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted by this code.

Yard, Front. A front yard is that yard, required or otherwise, extending along the full length of the front lot line between the side lot lines from the front line of the building or structure to the rear property line.

Yard, Rear. A rear yard is that yard, required or otherwise, extending along the full length of the rear lot line between the side lot lines from the rear lot line of the building or structure to the rear property line.

Yard, Side. A side yard is that yard, required or otherwise, extending along the side yard between the front yard and the rear yard from the side line of the building or structure to the side property line.

Yard, Corner Side. A corner side yard is that area between the setback lines, the side lot line, and rear lot line, which area faces the street.

Yard, Interior Side. An interior side yard which is located immediately adjacent to another lot or to any alley separating such side yard from another lot.

Zoning Administrator. The Zoning Administrator is a person appointed by the County Board to perform the duties of Zoning Administrator.

Zoning Board of Appeals. The Zoning Board of Appeals for Menard County, Illinois.

## ARTICLE IV

### §4.01 LOTS AND YARDS

- A. General Lot and Yard Requirements. The following lot and yard regulations shall apply to all lots or tracts of land on which a structure is located.
1. The minimum yard space required for one structure for use shall not be considered as the yard of any other, including an adjoining structure or use.
  2. Required yards shall be located on the same lot as the principal building or use.
  3. No lot shall be divided, hereafter, into two or more lots and no part of a lot shall be sold unless resultant lots conform to all yard or setback requirements in the district where the lots are to be located. Legal non-conforming structures, located on lots to be divided, shall not be required to conform to yard or setback requirements when property boundaries cannot accommodate said yard or setback requirements. This provision shall only be applicable when seeking a division of land.
  4. At least two-thirds (2/3) of the area of a required front yard or corner side yard shall be landscaped except in the A-Agriculture District.
  5. On corner lots in all districts, nothing shall be erected, placed, planted or allowed to grow in the following described triangle area in such a manner as to impede vision between a height of two and one-half (2 ½) feet and ten (10) feet above the centerline of grade of the intersecting streets. The triangle area is measured as follows: At the corner intersection property pin, measure back a distance of fifteen (15) feet, parallel with both street rights of way to form the legs of a triangle then complete the triangle with a line connecting the end point of each leg.
- B. Permitted Obstructions in Required Yards. No obstructions shall be allowed in any yard required by this code. However, the following shall not be considered to be obstructions when located in required yards specified subject to the requirements to maintain visibility at intersections contained in Section 4.01(A)(5) of this code.
1. In All Required Yards. Sills, cornices, and other architectural features extending eighteen (18) inches or less into the yard; free-standing night lights of not more than one-half (1/2) foot candle power; awnings or canopies projecting into a yard not more than twenty-five (25) percent of the required yard depth; steps, landings, and fire escapes necessary for access to buildings or lots; chimneys projecting two (2) feet or less into the yard; arbors and trellises; flag poles, trees and shrubs; fences and walls, not exceeding six (6) feet in height when the principal use of a property is residential and eight (8) feet for all other principal uses except farms

which shall have no maximum fence height restrictions. The maximum fence height shall be measured from the established grade of the property.

2. In Required Front Yards or Corner Side Yards. Bay windows projecting three (3) feet or less into the yard; unroofed terraces, decks or balconies not projecting over ten (10) feet into the yard; eaves and gutters; fuel, air and water pumps in conjunction with automobile service stations, provided they shall be set back at least thirteen (13) feet back from the front property line; canopy over fuel pumps; advertising signs, devices, and nameplates.
  3. In Required Side Yards. Eaves and gutters projecting two (2) feet or less; off street parking spaces in commercial districts; air conditioning equipment; refuse storage areas (dumpsters and garbage cans).
  4. In Required Rear Yards of Lots and Parcels, Five (5) Acres or Less in Lot Size. Off street parking spaces; swimming pools; tennis courts, and other similar recreational facilities; accessory buildings (e.g., detached residential garages or carports or storage buildings); covered decks or screened porches; central air conditioning equipment; refuse storage areas (dumpsters and garbage cans); terraces and decks; bay windows projecting three (3) feet or less into the yard; eaves and gutters, provided that eaves and gutters of accessory building are not closer than two (2) feet from a lot line.
- C. Outdoor Lighting. All outdoor lights used to illuminate any lot shall be so shielded and directed so as to protect adjacent residentially zoned lots from direct or reflected glare.
- D. Dumpsters. Dumpsters providing refuse storage in the R-1, R-3 and B-1 zoning districts shall be screened with a wood or masonry fence on all sides except that area which must remain unobstructed in order to allow garbage pick-up. Individual garbage cans need not be screened.

## ARTICLE V

§5.01 OFF-STREET PARKING REGULATIONS. The following regulations are established to increase safety and lessen congestion in the public streets, to prevent the deficiency of automobile parking spaces associated with the development of land and increases automobile usage, to set standards for the requirement of off-street parking and loading unique to the particular needs of the district in which the use is located according to the anticipated amount of traffic generated by such uses, and to eliminate the on-street storage of vehicles. In connection with any building hereafter erected or substantially altered or enlarged, or any parking lot hereafter installed, there shall be provided off-street parking and loading areas meeting all the minimum requirements of this section.

### §5.02 GENERAL PROVISIONS.

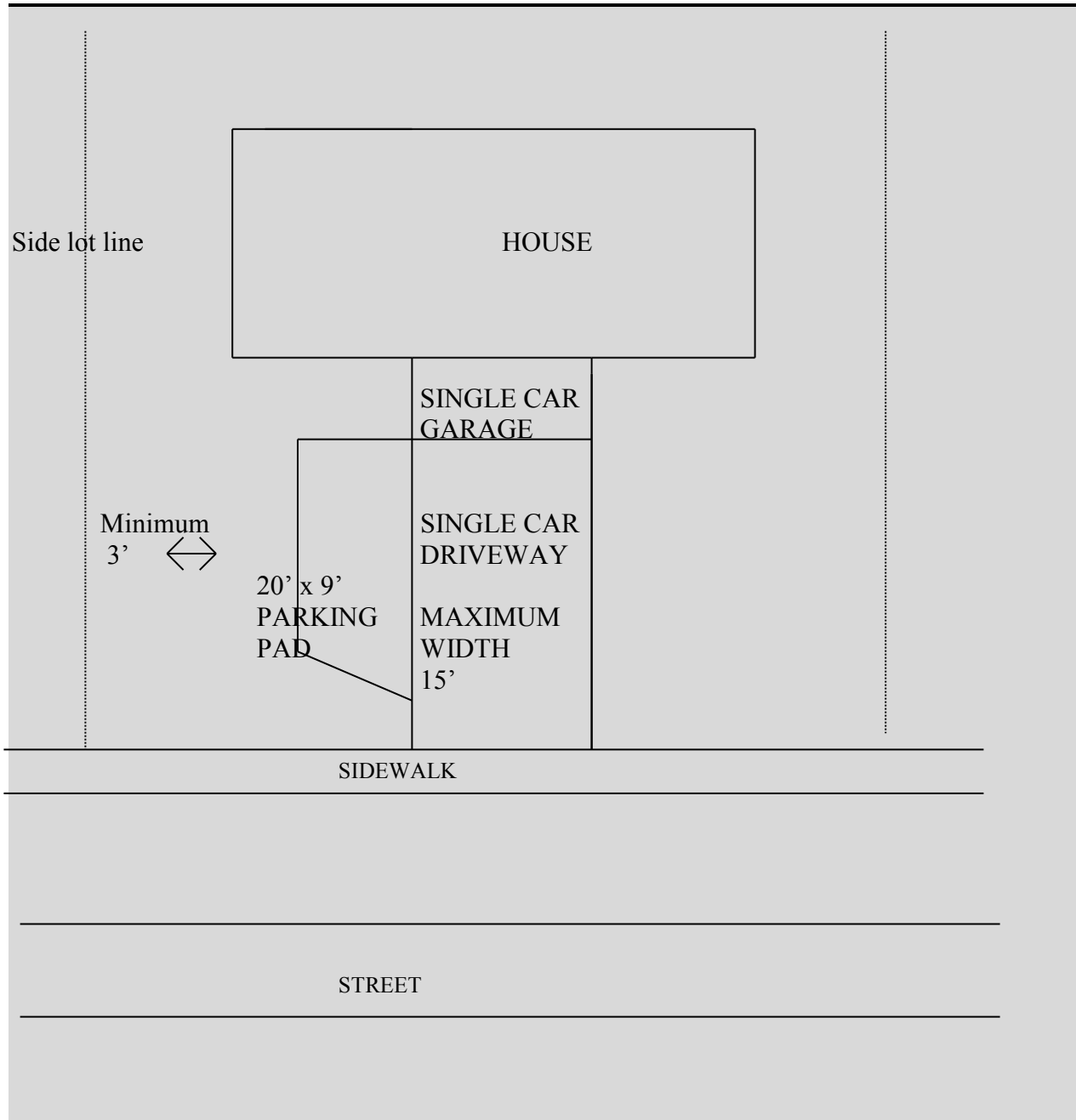
- A. Permissive Parking and Loading Facilities. Nothing in this section shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities beyond those required by this code to serve any new or existing uses of land or buildings, provided that there is adherence to all regulations herein governing the location, design and operation of such facilities.
- B. Damage or Destruction. When any building, structure or use which is in existence on the effective date of this ordinance is restored and continued in operation after being damaged or destroyed by fire, collapse, explosion, or other cause, to the extent that the cost of restoration does not exceed fifty percent (50%) of the fair cash market value, there shall be required only off-street parking and loading facilities equivalent to any maintained at the time of such damage or destruction. However, in no case shall it be necessary to restore or maintain off-street parking or loading facilities in excess of those required by this code.
- C. Existing Uses. Whenever the existing use of a building or structure erected prior to the effective date of this code shall hereafter be changed to a new use, additional off-street parking or loading facilities shall be required for such use only in the event the floor area, number of dwelling units or other factor affecting off-street parking requirements is increased and then only to the extent required by the additional floor area, number of dwelling units, or other factor affecting the parking requirements.
- D. Parking and Loading Area Plan. No application for a zoning permit for a new, enlarged, or altered structure or improvement shall be issued, unless there is included within the application a plan showing the location, layout, and critical dimensions of all off-street parking and loading facilities. Such plan shall be drawn to scale and show vehicular access and circulation patterns.

§5.03 DESIGN AND USE REQUIREMENTS.

- A. Use. Required off-street parking spaces accessory to uses listed in this Section shall be solely for the parking of motor vehicles of less than one (1) ton capacity of occupants, patrons, or employees or vehicles used in a permitted home occupation. Each required space shall be kept available at all times for the parking of one motor vehicle.
- B. Storage of Major Recreational Equipment. Any owner of major recreational equipment may park or store such equipment in a residence district subject to the following conditions:
1. At no time shall such parked or stored equipment be occupied or used for dining, sleeping or housekeeping purposes while parked or stored in a residence district except that it shall be permissible for a bona fide guest of a householder to park, eat and sleep in a mobile home, travel trailer, pick-up coach, motor-home, or camping trailer in the rear yard of any dwelling house for a period not to exceed fourteen (14) days in one calendar year.
  2. If the major recreational equipment is parked or stored outside of a garage, it shall be parked or stored to the rear of the front building line of the principal structure on the lot and outside the required side yard setback. Such equipment need not be stored on a hard surface.
- C. Location.
1. Required off-street parking spaces in residential districts shall be located on the same lot as the use served.
  2. Parking spaces required in other districts for all other uses shall be located on the same lot or on an adjoining lot, provided however that where ten (10) or more parking spaces are required:
    - a. Such parking spaces may be provided on a lot located no more than five hundred (500) feet as one walks from the lot requiring said parking.
    - b. Such lot shall be owned by the owner of the use requiring the parking or controlled by a five- (5) year lease on such lot.
    - c. No parking spaces permitted by (a) above shall be located in a residential district.
  3. Accessory off-street parking spaces shall not be located in the following locations:
    - a. In the R-1 Single Family and R-3 Multiple Family districts in the front yard(s) or corner side yard, except on a driveway or on a parking pad constructed of gravel, asphalt or concrete, which parking pad is adjacent to



and existing single car driveway and no closer than three (3) feet from the property line as follows:



In no case shall a parking pad be adjacent to a street side lot line. In any event, a driveway shall lead directly to the off-street parking space, while maintaining at least two-thirds (2/3) of the required front or required corner side yard in a landscaped condition.

- b. In all other districts in the required front yard or corner side yard unless otherwise authorized in this code;
  - c. It shall be unlawful for any person to park a motor vehicle or for the owner of a lot to permit such vehicle to remain parked at a location where off-street parking spaces would be prohibited by this section. When any vehicle shall be parked in violation of any provision of this section, the person in whose name the vehicle is registered shall be prima facie responsible for such violation and subject to the penalties therefor. Defenses to the prima facie case shall be limited to a showing that the vehicle was not parked illegally or that the individual was not the registered owner at the time of the alleged violation.
- D. Computation. When computation of the required number of off-street parking spaces results in a requirement of a fractional space, a fraction of less than one-half (1/2) shall be disregarded and a fraction of one-half (1/2) or more shall be counted as one space.
- E. Collective Provision. Two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the number of parking spaces provided shall not be less than the sum of the separate requirements for each such building or use.
- F. Design, Construction, and Maintenance Standards.
- 1. Open and enclosed spaces. Accessory off-street parking spaces may be open to the sky or enclosed or partially enclosed in a structure.
  - 2. Surfacing. Parking areas and driveways may be gravel provided dust control methods are in place.
  - 3. Drainage. All parking areas shall be pitched and drained so as to prevent the flow of water from such area directly onto adjoining property.
  - 4. Size and Access. All off-street parking facilities shall be provided with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. Each required parking space shall open directly upon an aisle, a driveway, or a public-way of such width and design as to provide safe and efficient means of vehicular access and egress to such parking space at all times. Each off-street parking space proposed for a commercial or industrial establishment in the B-1, B-2 or M-1 zoning districts are encouraged to delineate its exact location. In no case shall the dimensions of such parking space area be less than eighteen (18) feet by nine (9) feet.
    - a. New common driveways in R-1 and R-3 districts are prohibited; Common driveways in the A agricultural, RR Rural Residential and B-2 highway business districts are encouraged.
    - b. No new driveway shall be less than ten (10) feet in width.

- c. No part of a new driveway other than a common driveway shall be located within three (3) feet of the side property line.

G. Required Number of Off-Street Parking Spaces. There shall be provided for each building, structure, and use hereafter erected, structurally altered or enlarged, the minimum of off-street parking spaces in accordance with the following:

- 1. The requirement specified in the applicable district regulation.

INTENTIONALLY BLANK PAGE

ARTICLE VI

§6.01 ESTABLISHMENT OF DISTRICTS. Menard County is divided into the following zoning districts:

A. Agricultural Districts

A Agriculture

B. Residence Districts

RR Rural Residential

R-1 Single Family

R-3 Multiple Family

C. Business Districts

B-1 Downtown Business

B-2 Highway Business

D. Manufacturing Districts

M-1 Manufacturing

E. Public Lands Districts

P-L Public Lands

§6.02 ZONING MAP. The location and boundaries of the districts are hereby established as shown on the Official Zoning Map of Menard County. Amendments to such map shall be by ordinance duly adopted by the County Commissioners. Periodically, the Zoning Administrator shall cause the zoning map to be updated and published in pamphlet form indicating to the extent practicable all changes made since the last revision. The Official Zoning Map of Menard County or after the publication and effective date of a revised zoning map of Menard County shall establish the zoning status of land, building or other land uses within the County as of said date. Changes shall be solely and exclusively by the provision or ordinances duly adopted by the County Commissioners after the effective date of the Zoning Map of Menard County or the effective date of any revision thereto.

- A. Rules for Interpretation. Where uncertainty exists with respect to the boundaries shown on the Zoning Map of Menard County, the following rules shall apply:
1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
  2. Boundaries indicated as approximately following platted lot lines or existing ownership lines shall be construed as following such lines;
  3. Boundaries indicated as approximately following governmental boundary lines shall be construed as following such lines;
  4. Boundaries indicated as following railroad lines shall be construed to lie midway between the main tracks of such railroad lines;
  5. Boundaries indicated as approximately following the center line of streams, canals, creeks, or other bodies of water shall be construed to follow such center lines;
  6. Boundaries indicated as parallel to or following an extension of features in (1) through (5) above shall be so construed.
  7. Where a district boundary divides property in single ownership or unified control at the time of the passage of this code, the Zoning Administrator, upon request of such property owner submitted within thirty (30) days of the adoption of this code, may extend the least restrictive zoning district applicable to any portion to such lot to the entire parcel and shall revise the official zoning map accordingly at the next regular update.
  8. Where, due to the scale, lack of detail, illegibility, or where physical features existing on the ground are at variance with those shown on the Zoning Map and there exists any uncertainty, contradiction or conflict as to the intended location of any boundary as shown thereon, the Zoning Administrator make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Zoning Board of Appeals.

### §6.03 A-AGRICULTURAL DISTRICT REGULATIONS

#### A. Purpose and Intent:

The purpose of the Agricultural district, as identified in the Comprehensive Plan of Menard County, is: First, to protect and maintain agriculture as a long term use of land; Second, to protect and maintain the future development of farm operations by protecting existing operations from incompatible uses; Third, to protect and expand the agricultural economic base; and, Fourth, to maintain and improve the quality of the agricultural soil resource.

#### B. The following principal uses are permitted in the Agricultural District:

1. Farms which may include the following accessory structures and land uses:
  - a. Single family dwelling (s), mobile home dwelling units as defined in §6.13 (Mobile & Manufactured Home Regulations) or modular dwelling units intended at the time of original occupancy for family members or tenants engaged in the farming operation, or other agricultural housing for seasonal workers including the following accessory uses: Accessory buildings, e.g., storage buildings and garages; Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; home occupations
  - b. Buildings for the storage, maintenance and repair of machinery and equipment used in the farming operation
  - c. Buildings providing shelter for livestock raised in the farming operation
  - d. Buildings for the storage of agricultural products and supplies raised or used on the farm
  - e. Fields for growing crops
  - f. Pastures
  - g. Fenced animal confinement areas
  - h. Outside open storage of equipment and supplies used in agricultural productions
  - i. Farm drainage and irrigation systems
  - j. Private riding stables

- k. Dance/Fitness Center (no adult entertainment as defined will occur)
  - l. Other structures or uses customarily incidental to agricultural activities
  - m. Bed and Breakfast Establishment
2. Converted farm residences, single family dwellings, mobile home dwelling units or modular dwelling units which were initially intended and which were used for occupancy by family members or tenants engaged in the farming operation but are no longer used and occupied by persons engaged in such operations. The applicant must provide evidence showing the residential structure has been used as part of a farming operation and that the structure meets the above definition of a converted farm residence. The following accessory uses shall be allowed:
    - a) Accessory buildings, e.g., storage buildings and garages.
    - b) Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; and home occupations.
    - c) Permitted accessory buildings and land uses authorized in the Agricultural District for farms with the exception of Section 6.03(B)(1)(a) which shall not be applicable.
  3. Single family dwellings, mobile home dwelling units as defined in §6.13 (Mobile & Manufactured Home Regulations) or modular dwellings on tracts containing thirty (30) acres or more including the following additional accessory uses:
    - a) Accessory buildings, e.g., storage buildings and garages.
    - b) Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; and home occupations.
    - c) Bed and Breakfast Establishment
  4. Bed & Breakfast establishments
  5. Day Care Homes
  6. Public Schools
  7. Churches and other places of public worship
  8. Cemeteries



9. Public Parks
  10. Sod Farms & Tree Farms including Christmas Tree Farms
  11. The following accessory uses may be provided in connection with the foregoing permitted uses:
    - a. off street automobile parking for employees and customers;
    - b. dumpsters for collection and refuse generated on site;
    - c. on premises advertising signs meeting the requirements of Section 6.12
    - d. incidental seasonal sales from Christmas Tree Farms
    - e. freestanding solar grids meeting the setback requirements of Section 6.03(D)(3)(a)
  12. The following accessory uses may be provided in connection with the foregoing permitted uses by special use permit only:
    - a. private Wind Energy Conversion System
    - b. off-premises advertising signs
    - c. agribusiness uses as listed in §6.03C(1) below
- C. The following principal uses are authorized by special use permit:
1. Agri-business, including any of the following:
    - a. greenhouse/nursery
    - b. roadside produce stand
    - c. farm supply storage and sale
    - d. feed storage and sales
    - e. grain elevator/storage
    - f. livestock sales
    - g. farm equipment/implement sales and repair
    - h. agricultural research and development
    - i. public riding stable

- j. veterinary hospitals or clinics
  - k. kennel
  - l. hunting facilities
  - m. fertilizer plants & storage tanks
  - n. winery
  - o. deer processing facility/meat market
  - p. automobile body shop
  - q. lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
2. Public and quasi-public uses
- a. hospitals/public medical facilities
  - b. Public utility installation other than poles, towers, wires cables, laterals, vaults, conduits and other similar distributing equipment of a public utility as defined in the Illinois Public Utilities Act or used for and in right-of-way of railroads but including towers, substations, exchanges, maintenance shops and yards and pumping stations, water filtration with associated treatment plants and elevated and underground storage tanks
  - c. arenas/stadiums
  - d. agricultural and horticultural fairs, displays, shows and exhibits
  - e. airport/heliport
  - f. public golf course
  - g. public highway & road district facilities
3. Rural/High Impact Uses
- a. mining and extraction of minerals
  - b. concrete batch plant/asphalt batch plant
  - c. prisons

- d. sanitary landfills
4. Off premises advertising signs
5. The following accessory uses may be provided in connection with the forgoing special uses:
- a. off street automobile parking for employees and customers;
  - b. dumpsters for collection and refuse generated on site;
  - c. on premises advertising signs (except where the principal use is an off-premises advertising sign) meeting the requirements of Section 6.12
  - d. freestanding solar grids meeting the setback requirements of Section 6.03(D)(3)(a)
6. The following accessory uses may be provided in connection with the foregoing special uses by special use permit only, unless otherwise stated:
- a. private wind energy conversion system
  - b. off-premises advertising signs. Additional off-premises signs are not allowed as an accessory use when the principal use is an off-premise sign
7. Companion Animal Crematory Services: A companion animal crematory service is an onsite service that is accomplished with a proprietary self-contained appliance installed as an appurtenance to a parcel and which is compliant with the Illinois Environmental Protection Agency's ROSS (Register of Smaller Sources, 35 Ill Adm Code 201.175) and whereby the service is performed by the owner of said parcel. The service will be an accessory special use to the principal agricultural use of the parcel or the principal use of a farm in which a residential dwelling is located and meets the following standards:
- a. Companion, domesticated, and non-commercially raised or produced animals will be allowed;
  - b. Per the IEPA ROSS requirements, the crematory service is allowed up to 5 tons (10,000 lbs) of material per year and a secondary particulate burner is also installed and utilized to meet NESHAP 40 CFR Parts 61 and 63, to ensure that no smoke or smell from the actual combustion is noticeable, and verification of such compliance shall be made to the County prior to any activity under this clause;

- c. Additional traffic does not create local roadway safety hazards to the property or neighboring property owners, off street parking shall be made available to limited on site visitors for the purpose of this service;
- d. Positioning of the appliance shall not be visible to neighbors and proper screening and/or any necessary measures to limit or prevent visible activity for said service to adjoining properties will be minimized to the best ability of the property owner;

This definition and provision shall in no way be intended or construed to allow the mass incineration or destruction of any commercially raised livestock.

#### D. Agricultural District Bulk Regulations

##### 1. Minimum lot area:

- a. Farms – No minimum lot area except for the following farm accessory structures and land uses which shall have a minimum lot area requirement of 30 acres: Single family dwelling (s), mobile home dwelling units, as defined in §6.13 Mobile & Manufactured Home Regulations, or modular dwelling units, intended at the time of original occupancy for family members or tenants engaged in the farming operation, or other agricultural housing for seasonal workers including the following accessory uses: Accessory buildings, e.g., storage buildings and garages; Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; home occupations.
- b. Converted farm residences – one (1) acre
- c. Non-farm residential use
  - 1. One (1) dwelling unit per thirty (30) acres on soils with a predominant soil productivity index of more than 110; or
  - 2. One (1) dwelling unit upon three (3) acres or more, on soils with a predominant soil productivity index of 110 and lower, per 30 acres of common ownership
    - a. Soil productivity is determined by the “Average Crop, Pasture, and Forestry Productivity Ratings for Illinois Soils” bulletin 810, which is managed by the University of Illinois. Soil classifications will be determined by the current approved USDA/NRCS Menard County Soil Survey.
    - b. Prior to the property being split, the owner must establish the boundaries of the thirty (30) acre property. Record of these splits will be maintained within the zoning and/or assessment office.

- d. Public schools – 5 acres
  - e. Churches, other places of public worship and day care homes – 1 acre
  - f. Cemeteries – 1 acre
  - g. Public parks – 1 acre
  - h. Agri-business uses – 1 acre except roadside produce stands where there shall be no minimum
  - i. Other public or quasi-public uses – 1 acre
  - j. Rural/high impact uses – 5 acres
2. Minimum lot width – 200’ extending to a distance equal to any front setback requirement with 200’ of frontage on a public road measured at the front setback line. Roadside produce stands shall have no minimum lot width
3. Minimum setbacks:
- a. for principal and accessory buildings, structures and outside storage areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50’ (If existing right of way is greater than the necessary right of way, the front setback requirement of 50’ shall be measured from the existing right of way line); side- 10’ except outdoor storage areas which shall have a 30’ minimum; rear 10’
  - b. for converted farm residences and allowable accessory buildings, structures and outside storage areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50’ (If existing right of way is greater than the necessary right of way, the front setback requirement of 50’ shall be measured from the existing right of way line); side 10’ except outdoor storage areas which shall have a 30’ minimum; rear 10’
  - c. Minimum setback for parking areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 25’ (If existing right of way is greater than the necessary right of way, the front setback requirement of 25’ shall be measured from the existing right of way line); side 10’; rear 10’
  - d. Pasture, fields and fences – no setback requirements

- e. Minimum structure setback from Illinois Route 97, Illinois Route 123 and Illinois Route 29 or any road designed as a principal arterial in the Menard County Comprehensive Plan shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 75' of which 50% shall be landscaped or maintained in a natural state (If existing right of way is greater than the necessary right of way, the front setback requirement of 75' shall be measured from the existing right of way line).
  - f. Private Wind Energy Conversion Systems shall be setback not less than 1.1 times the tower height from the necessary road right of way of a public road (as measured from the center of the public road pavement), overhead utility transmission lines, communication towers and adjacent property lines.
4. Building or structure height - No maximum building or structure height, unless otherwise specified
5. Minimum Parking
- a. For farms – 2 spaces per dwelling unit plus 1 space for every 2 full time equivalent employees.
  - b. For single family residential including converted farm residence – 2 spaces per dwelling unit
  - c. Other – 1 space per 300 square feet of floor area except floor area devoted solely to storage

## Agricultural District

Menard County has a wide variety of land uses located in rural area outside its cities, villages, and towns. Some are clearly “residential”, i.e. principally homes for families whose livelihood comes from sources other than the property on which they reside. The fact that they maintain a large garden, own a tractor, send their kids to rural schools and think of themselves as “landed gentry” or “farmers” doesn’t change their home into a farm or convert the principal use of their property from residential to agricultural.

At the other extreme, there are some rural land uses that are clearly commercial in nature. While they may involve endeavors that support or complement the farming community they are first and foremost service or production facilities, not farms. Illustrative examples include commercial grain elevators, agricultural equipment sales and service centers, seed dealers, chemical dealers, processing plants, slaughterhouses, agricultural produce sale or distributorships.

Between these two extremes is the type of “farming operation” that Menard County seeks to encourage and preserve through its agricultural zoning regulations. The typical farm in Menard County is both a home and a livelihood; a place of residence and a place of business.

There are certain things that are commonly associated with, or accessory to, a farm. There are certain things that are not.

Single-family residences for families engaged in farming operations are expected. Strip development of 5+ acre homesites along a road on the perimeter of a farm is not.

Buildings for the storage, maintenance, and repair of farm equipment is expected. Commercial, automobile and truck service and repair shops are not.

Inside and outside storage of farm equipment is expected. Fields of rusting or rotting junk, automobile salvage yards and sales lots are not.

§6.04 RR - RURAL RESIDENTIAL DISTRICT REGULATIONS.

A. Purpose and Intent:

The purpose of the rural residential district is to provide for residential uses at low densities in predominantly agricultural areas on soils that because of their size, shape, slope, fertility, or land cover are poorly suited to agricultural use but well suited to residential use. In and about such districts, it is recognized that agriculture remains the preferred land use and that residents therein should expect to encounter the noise, heat, dust, odors, late night/early morning operations, fertilization and pest management practices that are common in modern farm operations.

B. The following principal uses are permitted:

1. Farms including permitted accessory buildings and land uses authorized in the A-Agricultural District for farms subject to the following additional regulations:
  - a) Only one single family dwelling shall be allowed on lots of less than twenty (20) acres. On lots of twenty (20) acres or more, additional dwelling units intended at the time of original occupancy for family members or tenants engaged in the farming operation, or other agricultural housing for seasonal workers shall be allowed.
2. Single family dwelling, mobile home dwelling unit as defined in §6.13 (Mobile & Manufactured Home Regulations) or modular dwelling unit with no farm uses or agricultural purposes. The following additional accessory uses shall be allowed:
  - a) Accessory buildings, e.g., storage buildings and garages.
    - i. Recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment; yard encroachments including t.v. antennas, satellite dishes; and home occupations.
  - c) Bed and Breakfast Establishment
3. Day care homes
4. Bed and Breakfast establishments
5. Cemeteries
6. Churches or other places of public worship
7. Public parks



8. The following accessory uses may be provided in connection with the foregoing permitted uses except for single family dwellings, mobile home dwelling units (as defined in §6.13, Mobile & Manufactured Home Regulations) or modular dwelling units that are determined to be a principal use of property which shall not be allowed the following permitted accessory uses unless otherwise specified:
    - a. Off street automobile parking for employees and customers.
    - b. Dumpsters for collection and refuse generated on site. Dumpsters shall not be allowed on lots of less than twenty (20) acres where the principal use of a property is a farm or a single family dwelling, mobile home dwelling or modular dwelling.
    - c. On premises advertising signs meeting the requirements of Section 6.12. On premises signs shall not be allowed on lots of less than twenty (20) acres where the principal use of a property is a farm or single family dwelling, mobile home dwelling or modular dwelling.
  9. The following accessory uses may be provided in connection with all foregoing permitted uses:
    - a) Freestanding solar grids meeting the setback requirements of Section 6.04(D)(3)(a)
  10. The following accessory uses may be provided in connection with the foregoing permitted uses by special use permit only:
    - a) Off-premises advertising signs
    - b) Private Wind Energy Conversion System
- C. The following principal uses are authorized by Special Use permit:
1. Day Care Centers
  2. Water Towers
  3. Public Golf Course
  4. Municipal well pump-houses to be operated in the public interest
  5. Ultra-light Aircraft Landing Strip
  6. Off premises advertising signs
  7. Public Highway & Road District Facilities

8. Public Potable Water Treatment Plants
9. Nursing and retirement homes
10. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
11. The following accessory uses may be provided in connection with the foregoing special uses:
  - a. Off street automobile parking for employees and customers.
  - b. Dumpsters for collection and refuse generated on site.
  - c. On premises advertising signs (except where the principal use is an off premise advertising sign) meeting the requirements of Section 6.12.
  - d. Freestanding solar grids meeting the setback requirements of Section 6.04(D)(3)(a)
12. The following accessory uses may be provided in connection with the foregoing special uses by special use permit only, unless otherwise stated:
  - a. Off-premises advertising signs. Additional off-premises signs are not allowed as an accessory use when the principal use is an off-premise sign
  - b. Private Wind Energy Conversion System

D. Bulk Regulations

1. Minimum lot area:
  - a. All uses unless otherwise specified below – three (3) acres
  - b. Bed and Breakfast establishments – 1 acre
  - c. Day Care Homes and Centers – 1 acre
  - d. Water Towers – 1 acre
  - e. Public Highway & Road District Facilities– 1 acre
  - f. Farms with no residential dwellings - no minimum lot area
  - g. Nursing and retirement homes – 1 acre

- h. Lawn & landscaping services – 1 acre
- 2. Minimum lot width: 200' extending to a distance equal to any front setback requirement with 200' of frontage on a public road measured at the front setback line. Roadside produce stands shall have no minimum lot width
- 3. Minimum setbacks:
  - a. Minimum setbacks for principal and accessory buildings, structures and outside storage areas unless otherwise stated - front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50' (If existing right of way is greater than the necessary right of way, the front setback requirement of 50' shall be measured from the existing right of way line); side 10' except outdoor storage areas which shall have a 30' minimum; rear 10'
  - b. Minimum setback for parking areas – front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 25' (If existing right of way is greater than the necessary right of way, the front setback requirement of 25' shall be measured from the existing right of way line); side 10'; rear 10'
  - c. Minimum structure setback from Illinois Route 97, Illinois Route 123 and Illinois Route 29 or any road designed as a principal arterial in the Menard County Comprehensive Plan shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 75' of which 50% shall be landscaped or maintained in a natural state (If existing right of way is greater than the necessary right of way, the front setback requirement of 75' shall be measured from the existing right of way line).
  - d. Private Wind Energy Conversion Systems shall be setback not less than 1.1 times the tower height from the necessary road right of way of a public road (as measured from the center of the public road pavement), overhead utility transmission lines, communication towers and adjacent property lines.
- 4. Building or structure height - No maximum building or structure height, unless otherwise specified
- 5. Minimum parking
  - a. Residential use 2 spaces per dwelling unit
  - b. Other – 1 space per 300 square feet of floor area

## Rural Residential District

People enjoy the beauty of rivers, lakes, streams, forest, and rolling topography and often seek to live in a rural setting outside the county's incorporated areas. Families appreciate rural values; they want to be able to "work a little ground", keep an animal or two and have space between them and their neighbors.

Since not all land is suitable for productive agricultural use, some can appropriately be used for residential purpose. Soil quality, slope, configuration, and drainage patterns influence productivity and are factors that should be devoted to other purposes. Just as all land is not suitable for agricultural purposes, all land is not suitable for residential use. Some land should be retained privately in its natural state; some should be acquired and preserved for the enjoyment of the public generally. Rivers and streams flood, forest require integrity and continuity to provide natural habitat, slopes erode and human occupancy, especially unregulated and irresponsible human occupancy, tends to blight and pollute. What was once pristine, natural, beautiful, and attractive becomes marred, artificial, ugly and undesirable. That's not what the County wants to encourage.

Menard County has experienced and expects to experience increased pressure for residential development. While the County's comprehensive plan encourages that development to occur primarily in or near the County's incorporated areas (where the logical extension of municipal services seems more likely), the rural residential zoning district recognizes that not all residential development will occur in cities, villages and towns and that the careful use of unproductive or less productive rural areas for residential purposes is appropriate.

INTENTIONALLY BLANK PAGE

§6.05 R-1 DISTRICT REGULATIONS.

A. Purpose and Intent:

The purpose of the R-1 Single Family District is to: First, provide for high quality residential development in well defined neighborhoods; Second, encourage the provision of housing suitable to a variety of family sizes and income levels; Third, promote quality in housing design; Fourth, encourage residential development in already developing areas to facilitate the logical extension of public utilities and services; Fifth, to improve the quality of existing residential areas; and Sixth, to maintain the small town character of Menard County.

B. The following principal uses are permitted:

1. Single family residential use which may include the following structures and land uses:
  - a. one single family dwelling or one modular dwelling unit (not mobile home dwelling unit)
  - b. attached or detached garage(s), carports and storage building(s)
  - c. a driveway and off street automobile parking area containing not less than two nor more than four spaces
  - d. fences not more than 6' in height (no barbed wire)
  - e. recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment
  - f. yard encroachments including t.v. antennas, satellite dishes
  - g. home occupations
2. Bed and Breakfast establishments
3. Day Care Homes
4. Cemeteries
5. Churches or other places of public worship
6. Public parks
7. The following accessory uses may be provided in connection with the foregoing permitted uses (other than single family residential uses):
  - a. off street automobile parking for employees and customers;
  - b. dumpsters for collection and refuse generated on site;
  - c. on premises advertising signs meeting the requirements of Section 6.12
8. The following accessory uses may be provided in connection with all foregoing permitted uses:
  - a) freestanding solar grids meeting the setback requirements for a of Section 6.05(D)(3)(a)

C. The following principal uses are authorized by Special Use Permit:

1. Day Care Centers
2. Not-for Profit Museums
3. Water Towers
4. Public Golf Course
5. Public Potable Water Treatment Plants
5. The following accessory uses may be provided in connection with the foregoing special uses:
  - a. off street automobile parking for employees and customers;
  - b. dumpsters for collection and refuse generated on site;
  - c. on premises advertising signs meeting the requirements of Section 6.12
  - d. freestanding solar grids meeting the bulk regulations for setback requirements of Section 6.05(D)(3)(a)

#### D. Bulk Regulations

1. Minimum lot area
  - a. Residential Use – 7,500 square feet
  - b. Bed and Breakfast establishments – 7,500 square feet
  - c. Churches or other place of public worship, Cemeteries, Public Parks – 1 acre
  - d. Day Care Homes and Centers – ½ acre
  - e. Water Towers – 1 acre
2. Minimum lot width
  - a. Residential use – 60' with 60' of frontage on a public road measured at the front setback line; 200' with 200' of frontage measured at the front setback line when a lot is to be accessed directly from any State of Illinois or Menard County Highway Department road or highway.
  - b. Bed and Breakfast establishments – 60'
  - c. Churches and other places of public worship, Cemeteries, Public Parks – 200'
  - d. Day Care Centers – 100'
3. Minimum setbacks for buildings, structures, outdoor storage areas and parking areas:

- a. Front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 30' (If existing right of way is greater than the necessary right of way, the front setback requirement of 30' shall be measured from the existing right of way line)
  - b. Side – 5'
  - c. Rear – 10'
  - d. Lots created prior to January 1, 1999 and located within 2,000 feet of the Sangamon River and 2,000 feet of Chautauqua Road and located within the R-1, single-family zoning district shall have no minimum setback requirements. Lots with shoreline along Lake Petersburg and located within the R-1, single-family zoning district shall have the following minimum setback requirements for buildings and structures (docks & boathouses are exempt from rear setback requirements but shall meet side setback requirements): Front – 8'; Side – 6'; Rear – The lake side of any building or structure shall be no closer to the shoreline than 30 percent (30%) of the distance from the shoreline to the front lot line.
4. Building or structure height – 30' measured from the top of the foundation level
5. Minimum parking
- a. Residential Use – 2 spaces per dwelling unit
  - b. Other Use – 1 space per 300 square feet of floor area



## R-1 Single Family Residence District

The Menard County comprehensive plan suggests that residential development is most appropriate in or near the County's incorporated cities, villages and towns where the extension of municipal services seems most likely. The R-1 zoning district is the district that is intended to accommodate that type of residential development.

Permissible densities in the R-1 district are higher than in the Rural Residential District because public utilities are in place and immediately available or more likely to become available as development occurs.

Increased density puts people in closer day to day contact with one another. The activities on one owner's property are more likely to generate an impact and effect the use and enjoyment of a neighbor's property. For that reason, the R-1 district contains more stringent land use regulations. Everyone gives up a little "freedom" to live harmoniously in closer proximity.

§6.06 R-3 DISTRICT REGULATIONS.

A. Purpose and Intent:

The purpose of the R-3 Multiple Family district is to: First, provide for a higher density residential development in well defined neighborhoods; Second, encourage the provision of housing suitable to a variety of family sizes and income levels; Third, promote quality in housing design; Fourth, encourage residential development in already developing areas to facilitate the logical extension of public utilities and services; Fifth, to improve the quality of existing residential areas; and Sixth, to maintain the small town character of Menard County.

B. The following principal uses are permitted:

1. Single family dwelling or modular dwelling units (but not mobile home dwelling units) including accessory uses permitted in the R-1 Residential District
2. Two family and multiple family dwellings including the following accessory uses:
  - a. attached or one detached garage (s) per dwelling unit containing a total of not more than 600 square feet per unit, but not both
  - b. a driveway and off street automobile parking area containing not less than two nor more than four spaces per dwelling unit
  - c. fences not more than 6' in height (no barbed wire)
  - d. recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, playground equipment
  - e. yard encroachments including t.v. antennas, satellite dishes
  - f. home occupations
  - g. inside storage of yard and garden equipment including one storage building per dwelling unit containing not more than 120 square feet of floor area
  - h. outside storage in one or more defined fenced or screened area containing not more than 200 square feet per dwelling unit or 10% of the lot area (in the aggregate) whichever is less
3. Day Care homes
4. Bed and Breakfast establishments

5. Cemeteries
6. Churches and other places of public worship
7. The following accessory uses may be provided in connection with the permitted uses (other than single, two or multiple family uses):
  - a. off street automobile parking for employees and customers;
  - b. dumpsters for collection and refuse generated on site;
  - c. on premises advertising signs meeting the requirements of Section 6.12

C. The following principal uses are authorized by Special use permit:

1. Offices
2. Convenience Stores
3. Day Care Centers
4. Mobile Home Parks
5. Water Towers
6. Public Golf Course
7. The following accessory uses may be provided in connection with the foregoing special uses:
  - a. off street automobile parking for employees and customers
  - b. dumpsters for collection and refuse generated on site;
  - c. on premises advertising signs meeting the requirements of Section 6.12

D. Bulk Regulations

1. Minimum lot area:
  - a. Single family – 7500 square feet
  - b. Two family – 5000 square feet per dwelling unit
  - c. Multiple family – 2500 per dwelling unit but not less than 10,000 square feet

- d. Churches, other places of public worship, Day Care Homes and Day Care Centers – ½ acre
  - e. Bed and Breakfast establishments – 7500 square feet
  - f. Cemeteries – one acre
  - g. Offices- 10,000 square feet
  - h. Convenience store – 10,000 square feet
  - i. Mobile home parks – 2 acres
  - j. Water Towers – 1 acre
2. Lot width:
- a. Mobile home parks – 200'
  - b. all other uses: 60' of frontage on a public right-of-way measured at the front setback line
3. Setback:
- a. Front – 30'
  - b. Side – 10'
  - c. Rear – 30'
4. Height – 30'
5. Required parking:
- a. Residential – 2 spaces per dwelling unit
  - b. Other – 1 space per 300 square feet of floor area

### R-3 Residence District

Many people live in residential settings other than in single family detached homes. Some rent, some own. The R-3 Residence District is intended to permit attached housing and at densities higher than permitted in the single family residence district. Recognizing that people in the R-3 District living in closer proximity to one another than is customary in the single family districts, the R-3 District authorizes some office and commercial uses by special use permit. The R-3 District often serves as a transition district between single family and commercial or manufacturing uses or zoning districts.

§6.07 B-1 DOWNTOWN BUSINESS DISTRICT REGULATIONS.

A. Purpose and Intent:

The purpose of the B-1 Downtown Business district is to: First, increase the level of retail activity in Menard County so as to provide necessary retail services to county residents; Second, to locate all commercial activity so that it is economically feasible to operate a business and to provide goods and services in a convenient, safe, and attractive manner; and, Third, to encourage commercial and industrial activity consistent with Menard County as a center of Lincoln's Illinois.

B. The following principal uses are permitted:

1. Accounting/Bookkeeping
2. Advertising services
3. Agri-business, including any of the following:
  - a. greenhouse/nursery
  - b. roadside produce stand
  - c. farm supply storage and sale
  - d. feed storage and sales
  - e. grain elevator/storage
  - f. farm equipment/implement sales and repair
  - g. agricultural research and development
  - h. veterinary hospitals or clinics
  - i. fertilizer plants & storage tanks
  - j. winery
  - k. deer processing facility/meat market
  - l. automobile body shop
4. Ambulance service
5. Amusement center/parks

6. Antique stores
7. Appliance repair shop
8. Appliance store
9. Art & school supply store
10. Art gallery, museum
11. Athletic club, indoor
12. Auction house
13. Automobile service station
14. Automobile, truck rental
15. Bakery and donut shops (retail sales only)
16. Ballroom, dance hall
17. Bank
18. Barber, beauty shop
19. Bed and breakfast
20. Blue print/copy shop
21. Book, stationery store
22. Bowling, billiard center
23. Bus passenger terminal
24. Business school
25. Candle shops
26. Candy & ice cream shops
27. Car wash
28. Cemeteries/columbarium

29. Churches and other places of public worship
30. Cleaning services, home/business
31. Clinics
32. Clothing store
33. Clubs, private
34. Collection services
35. Community center
36. Computer data-processing center
37. Convenience stores
38. Dairy store
39. Dance studio
40. Day care centers
41. Delicatessen
42. Dental offices
43. Department store
44. Diaper store
45. Drive-in restaurants
46. Drug store
47. Dry cleaners
48. Dry goods store
49. Dwelling units when located above the first story
50. Exterminating pest control
51. Florist shop



52. Funeral parlor/mortuary
53. Fur store/sales
54. Furniture store
55. Garden supply shop
56. Gift shop
57. Greenhouse
58. Greeting card shop
59. Gun store
60. Gymnasium
61. Hardware store
62. Health club/spas/reducing salons
63. Hobby, toy store
64. Indoor tennis club
65. Jewelry store
66. Laundry/coin/retail
67. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
68. Leather goods shop
69. Liquor store
70. Lumberyard, building materials storage
71. Mail order store
72. Market, grocery store
73. Masseurs, masseuse services

74. Mobile home, recreational vehicle rental and sales
75. Motel, hotel
76. Motion picture theater
77. Motor vehicle parts & accessory sales
78. Motor vehicle repairs, paint shop
79. Motor vehicle sales
80. Motor vehicle storage
81. Music store/records/CD's
82. News stand
83. Night club/bar/tavern
84. Nursery school
85. Nursing and retirement homes
86. Office use
87. Optical goods sales
88. Park
89. Parking lot
90. Pet store
91. Photographic studios
92. Photographic supply sales
93. Police station
94. Postal services/shipping/mailing
95. Print shop
96. Public highway & road district facilities

97. Radio, radar site
98. Radio, TV station
99. Real estate services
100. Recreational vehicle sales
101. Restaurants
102. Retail lumber sales
103. Rug, floor-covering store
104. Shoe repair shop
105. Shoe store
106. Single family residential use which may include the following structures and land uses:
  - a. one single family dwelling, or one modular dwelling unit, or one mobile home dwelling unit as defined in §6.13 (Mobile & Manufactured Home Regulations)
  - b. attached or detached garage(s), carport(s) and storage building(s)
  - c. a driveway and off street automobile parking area containing not less than two nor more than four spaces
  - d. fences not more than 6' in height (no barbed wire)
  - e. recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses and playground equipment
  - f. yard encroachments including t.v. antennas, satellite dishes
  - g. home occupations
107. Specialty food store
108. Sporting goods sales
109. Storage; canned or bottled beverages
110. Storage; fiber products
111. Storage; flour, starch, sugar
112. Storage; loose or bagged agricultural products
113. Storage; loose or bagged processed food

114. Storage; metal, metal products
115. Storage; non-hazardous chemicals or plastic products
116. Storage; packaged foodstuff
117. Storage; packaged mineral products
118. Storage, packaged tobacco products
119. Storage; paper, paper products
120. Storage; rolled paper
121. Storage; seeds, beans nuts & silage
122. Storage, wood products, furniture
123. Supper club
124. Tailor, dress making shop
125. Theater
126. Tobacco shop
127. Travel bureau
128. Two family and multiple family dwellings including the following accessory uses:
  - a. attached or one detached garage(s) per dwelling unit
  - b. a driveway and off street automobile parking area containing not less than two nor more than four spaces per dwelling unit
  - c. fences not more than 6' in height (no barbed wire)
  - d. recreational amenities including gardens, in-ground swimming pools, above-ground swimming pools, playhouses, and playground equipment
  - e. yard encroachments including t.v. antennas, satellite dishes
  - f. home occupations
129. Variety store
130. Veterinary hospitals
131. Video rental/sales

- 132. Wallpaper; paint store
  - 133. Warehouse; general
  - 134. Warehouse; mini (with or without dwelling unit for superintendent)
  - 135. Welfare agency
- C. The following accessory uses may be provided in connection with the foregoing principal uses:
- 1. off street automobile parking for employees and customers;
  - 2. dumpsters for collection and refuse generated on site;
  - 3. on premises advertising signs meeting the requirements of Section 6.12
  - 4. freestanding solar grids
- D. The following principal uses (or accessory uses, if stated as an allowable accessory use) are authorized by Special Use Permit in the B-1 Downtown Zoning District:
- 1. Off premises advertising signs (allowable accessory use for all principal uses except residential uses)
  - 2. Water Towers & accompanying accessory uses as listed in Section 6.07(C)
  - 3. Recycling Facilities & accompanying accessory uses as listed in Section 6.07(C)
- E. Bulk Regulations
- 1. Minimum lot area – 1800 square feet  
5000 square feet for single family dwelling units; 2500 square feet per dwelling unit for two and multiple family dwelling units  
1 acre for Water Towers
  - 2. Minimum lot width – 30’
  - 3. Setback – front 0; side 0; rear 0  
Residential – front 10’; side 5’; rear 10’
  - 4. Maximum height – 45’ for all structures except grain elevators which shall have no maximum height
  - 5. Required parking  
Residential: 2 per dwelling unit

Other: none

#### B-1 District

The Menard County comprehensive plan suggests that general commercial activity be encouraged to locate in or near the County's incorporated cities, villages, and towns or along certain highways which facilitate the safe and efficient movement of traffic. The B-1 Downtown Business-zoning district is intended to accommodate commercial development in the county's incorporated areas.

In the B-1 Downtown Business zoning district, businesses are located close to other businesses often sharing party walls and common parking lots. The perimeter of the downtown's business zoning district often abuts or is in close proximity to residential land uses. Given this proximity, the noise, smell, lights and activity generated by one use may spill over and impact adjoining and nearby properties. Minimizing the potential for such conflict is a goal of the district regulations applicable in the B-1 Downtown Business Zoning District.

INTENTIONALLY BLANK PAGE

## §6.08 B-2 HIGHWAY BUSINESS DISTRICT REGULATIONS

### A. Purpose and Intent:

The purpose of the B-2 Highway Business District is to: First, increase the level of retail activity near major interchanges; Second, to discourage strip commercial development or spot commercial development along streets and highways so as to minimize traffic hazards to people and property and to avoid conflicts with adjoining uses; Third, to locate all commercial activity so that it is economically feasible to operate a business and to provide goods and services in a convenient, safe, and attractive manner; and, Fourth, to encourage commercial and industrial activity consistent with Menard County as a center of Lincoln's Illinois.

### B. The following principal uses are permitted:

1. Accounting/bookkeeping
2. Advertising sales
3. Agricultural implement, sales & repair
4. Agricultural supply store
5. Ambulance service
6. Amusement center/parks
7. Antique stores
8. Appliance repair shop
9. Appliance store
10. Art & school supply store
11. Art gallery, museum
12. Athletic club, indoor
13. Auction house
14. Automobile service station
15. Automobile, truck rental
16. Automobile, truck sales



17. Bakery & donut shops
18. Ballroom, dance hall
19. Bank
20. Barber, beauty shop
21. Blue print/copy shop
22. Boat sales
23. Book, stationery store
24. Bowling, billiard center
25. Bus passenger terminal
26. Business school
27. Campground
28. Candle shops
29. Candy & ice cream shops
30. Car wash
31. Cemeteries/columbarium
32. Churches and other places of public worship
33. Cleaning services, home/ business
34. Clinics
35. Clothing store
36. Clubs, private
37. Collection services
38. Computer data-processing center
39. Convenience stores

40. Dairy store
41. Dance studio
42. Day care centers
43. Delicatessen
44. Dental offices
45. Department store
46. Diaper service
47. Drive-in theaters
48. Drive-in restaurants
49. Drug store
50. Dry cleaners
51. Dry goods store
52. Dwelling units when located above the first story
53. Exterminating pest control
54. Florist shop
55. Funeral parlor/mortuary
56. Fur store/sales
57. Furniture store
58. Garden supply store
59. Gift shop
60. Go cart tracks
61. Golf driving ranges
62. Grain elevator

63. Greenhouse
64. Greeting card shop
65. Gun store
66. Gymnasium
67. Hardware store
68. Health club/spas/reducing salons
69. Hobby, toy store
70. Household goods, sales & repair
71. Indoor or outdoor tennis club
72. Jewelry store
73. Laundry/coin/rental
74. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)
75. Leather goods shop
76. Liquor store
77. Lumberyard, building materials storage
78. Mail order store
79. Market, grocery store
80. Miniature golf course
81. Mobile home, recreational vehicle rental and sales
82. Motel, hotel
83. Motion picture theater
84. Motor vehicle parts & accessory sales

85. Motor vehicle repairs, paint shop
86. Motor vehicle sales
87. Motor vehicle storage
88. Music store/records/CD's
89. Night club/bar/tavern
90. Nurseries & greenhouses
91. Nursery school
92. Nursing & retirement homes
93. Office use
94. Optical goods sales
95. Park
96. Parking lot
97. Pet store
98. Photographic studios
99. Photographic supply sales
100. Police station
101. Postal services/shipping/mailing
102. Print shop
103. Public highway & road district facilities
104. Radio, radar site
105. Radio, TV station
106. Real estate services
107. Recreational vehicle sales

108. Restaurants
109. Retail lumber sales
110. Roller rink
111. Rug, floor-covering store
112. Shoe repair shop
113. Shoe store
114. Specialty food store
115. Sporting goods sales
116. Storage; canned or bottled beverages
117. Storage; petroleum products
118. Storage; fiber products
119. Storage; flour, starch & sugar
120. Storage; heavy machinery & equipment
121. Storage; ice
122. Storage; loose or bagged agricultural products
123. Storage; loose or bagged processed food
124. Storage; metal, metal products
125. Storage; non-hazardous chemicals or plastic products
126. Storage; packaged foodstuff
127. Storage; packaged mineral products
128. Storage; package tobacco products
129. Storage; paper, paper products
130. Storage; rolled paper

131. Storage; seeds, beans, nuts & silage
132. Storage; wood products, furniture
133. Supper club
134. Tailor, dress making shop
135. Theater
136. Tobacco shop
137. Towing services
138. Trailer rental and sales
139. Travel bureau
140. Truck stop
141. Variety store
142. Veterinary hospitals
143. Video rental/sales
144. Wallpaper; paint store
145. Warehouse; general
146. Warehouse; mini (with or without dwelling unit for superintendent)
147. Welding service
148. Wholesale distributors

The following accessory uses may be provided in connection with the foregoing principal uses:

- a. off-street automobile parking for employees and customers;
- b. off-street parking for delivery or other vehicles used in the trade or business;
- c. dumpsters for collection of refuse generated on site;
- d. on-premises advertising signs meeting the requirements of Section 6.12.

- e. allowable accessory uses when the principal use of the property is a campground: decks, detached garage, 400 square feet of total accessory building(s)/structure(s) excluding detached garage, 400 square feet of additional dwelling structure that is utilized as an accessory building or use to a recreational vehicle. No bulk regulations, except for maximum building and structure height, shall apply to such accessory uses except if a campground lot is to have direct access to a public road whereas the minimum lot width requirements and front setback requirement of the B-2 zoning district shall apply (Colson Loop Road shall not be considered a public road for the purpose of these regulations).
- f. Freestanding solar grids meeting the setback requirements of Section 6.08(D)(3)(a)

The following accessory uses may be provided in connection with the foregoing principal uses by special use permit only:

- a. Off premises advertising signs
- C. The following principal uses are authorized by Special Use Permit in the B-2 Highway Business District:
- 1. Arena, stadium
  - 2. Race track/motor vehicle
  - 3. Rifle/pistol ranges, gun clubs
  - 4. Off premises advertising signs
  - 5. Water Towers
  - 6. Single, Two and Multiple Family Dwellings, Modular Homes, and Mobile Homes as defined in §6.13 (Mobile & Manufactured Home Regulations).
  - 7. With accessory uses as authorized for permitted uses in this district. Single, two and multiple family dwellings, modular homes, and mobile homes as defined in §6.13 (Mobile & Manufactured Home Regulations) shall not be allowed these accessory uses but shall be allowed those accessory uses allowed for such principal uses in the R-1 and R-3 districts.

## D. Bulk Regulations

### 1. Minimum lot area:

One acre; When the principal use of the property is determined to be a campground, the minimum lot area shall be one acre. However, individually-owned lots within a campground shall have no minimum lot area.

### 2. Minimum lot width:

150' extending to a distance equal to any front setback requirement with 150' of frontage on a public road measured at the front setback line.

### 3. Minimum setbacks:

a. Front shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 50' (If existing right of way is greater than the necessary right of way, the front setback requirement of 50' shall be measured from the existing right of way line)

b. Side – 10'

c. Rear – 10'

d. Minimum structure setback from Illinois Route 97, Illinois Route 123 and Illinois Route 29 or any road designed as a principal arterial in the Menard County Comprehensive Plan shall be one-half the distance of the necessary right of way of the applicable road, measured from the center of the road, and an additional 75' of which 50% shall be landscaped or maintained in a natural state (If existing right of way is greater than the necessary right of way, the front setback requirement of 75' shall be measured from the existing right of way line).

### 4. Maximum height: Two story, 30'

### 5. Required parking: One space/300 square feet of gross floor area Two for each dwelling unit.



## B-2 Highway Business District

Highways provide the principal transportation network for the people of Menard County. The County's comprehensive plan recognizes the need to preserve the County's principal highways as traffic carriers and to discourage land uses on abutting property that create traffic congestion and hazards to the motoring public. The plan also acknowledges that commercial development, particularly commercial development that serves the motoring public and/or requires delivery or distribution of goods and services by motor vehicle, is most appropriately located on the County's highway network. The B-2 highway business-zoning district is intended to accommodate that commercial need.

In the B-2 highway business district, development is ordinarily on a lot-by-lot basis. Land uses are generally separated from other land uses with each providing its own driveway entrance, parking areas and signage. The district zoning regulations in the B-2 highway business district focus on required setbacks, off-street parking, the visual impact land uses have on adjoining property and the general public and traffic safety.

## §6.09 M-1 DISTRICT REGULATIONS

### A. Purpose and Intent:

The purpose of the M-1 Manufacturing District is to: First, promote the development of light, non-polluting industry; Second, to foster the promotion and development of locally owned and operated industry; Third, to minimize strip industrial development or spot industrial zoning in the County; Fourth, to locate new industrial areas where direct access can be provided to railroads or major arterials and where such areas are separated from nearby residential and educational uses; and Fifth, to recognize and to promote the development of agriculture as Menard County's oldest and historically most stable, industry.

### B. The following principal uses are permitted in the M-1 Manufacturing District:

1. Agricultural implement manufacture, assembly, sales & repair
2. Agricultural supply store
3. Aircraft manufacture & assembly
4. Ambulance service
5. Animal breeding services
6. Appliance repair shop
7. Auction house
8. Bagged mineral production
9. Bakery/wholesale
10. Bicycle manufacture
11. Boat manufacture
12. Cemeteries/columbarium
13. Chemical production
14. Churches & other places of public worship
15. Cleaning services, home/business
16. Coal storage

17. Contractor's shop
18. Cordage, rope, twine & net manufacture
19. Cotton, spinning & weaving
20. Dairy products manufacture
21. Diaper service
22. Distilling, rectifying, blending spirits
23. Drugs, pharmaceutical manufacture
24. Electrical & electronic machinery manufacture
25. Electrical appliance manufacture
26. Exterminating pest control
27. Extraction, loading, storage, washing & hauling of sand, gravel & topsoil
28. Fish hatcheries
29. Food locker plants
30. Footwear manufacture
31. Furniture repair/woodworking
32. Furniture, fixture, bedding manufacture
33. Gas company plants & facilities
34. Glass manufacture
35. Grain elevator
36. Greenhouse
37. Heating, physical plant
38. Indoor/outdoor tennis club
39. Instrument manufacture

40. Jewelry manufacture
41. Laboratory
42. Laundry/coin/retail
43. Laundry/commercial
44. Leather goods shop
45. Linen supply house
46. Liquor store
47. Lumberyard, building materials storage
48. Machinery manufacture
49. Manufacture of grain mill products
50. Manufacture of products from cork or wood
51. Manufacture of products from plastic
52. Manufacture of products from processed fur
53. Manufacture of products from processed leather
54. Manufacture of transport equipment, component parts only
55. Metal products manufacture
56. Motel, hotel
57. Motor vehicle manufacture & assembly
58. Motor vehicle repairs, paint shop
59. Motor vehicle storage
60. Musical instrument manufacture
61. Newspaper, magazine printing and publishing
62. Nurseries & greenhouses

63. Photographic, optical goods manufacture
64. Plastic & plastic products manufacture
65. Postal services/shipping/mailing
66. Pottery, china, earthenware manufacture
67. Print shop
68. Radio, radar site
69. Radio, TV station
70. Rail terminal
71. Recreational vehicle sales
72. Restaurant supplies & services manufacture and sales
73. Restaurants
74. Retail lumber sales
75. Rubber, rubber products manufacture
76. Shoe repair shop
77. Shoe store
78. Snack food manufacture
79. Soft drink, carbonated water industry
80. Sporting goods manufacture
81. Storage; canned or bottled beverages
82. Storage; petroleum products
83. Storage; fiber products
84. Storage; flour, starch & sugar
85. Storage; heavy machinery & equipment

86. Storage; ice
87. Storage; loose or bagged agricultural products
88. Storage; loose or bagged processed food
89. Storage; metal, metal products
90. Storage; non-hazardous chemicals or plastic products
91. Storage; packaged foodstuff
92. Storage; packaged mineral products
93. Storage; packaged tobacco products
94. Storage; paper, paper products
95. Storage; rolled paper
96. Storage; seeds, beans, nuts & silage
97. Storage; wood products, furniture
98. Supper club
99. Tailor, dress making shop
100. Textile manufacture; absent of any dye process
101. Toys, sporting goods manufacture
102. Trailer/mobile home/recreational vehicle rental and sales
103. Truck freight terminal
104. Truck stop
105. Truck terminal
106. Warehouse; general
107. Warehouse; mini (with or without dwelling unit for superintendent)
108. Watch, clock manufacture

109. Wearing apparel manufacture
110. Welding service
111. Well drilling
112. Wholesale distributors
113. Wooden, cone containers manufacture
114. Wool, worsted; spinning & weaving

The following accessory uses may be provided in connection with the foregoing principal uses:

- a. off street automobile parking for employees and customers;
- b. off street parking for delivery or other vehicles used in the trade or business;
- c. dumpsters for collection of refuse generated on site;
- d. open outside storage in fenced or screened areas containing not more than 25% of the lot area;
- e. incidental sales of goods manufactured or assembled on site
- f. on premise advertising signs meeting the requirements of Section 6.12.

C. The following principal uses are authorized by Special Use Permit in the M-1 Manufacturing District:

1. Airport, heliport
2. Arena, stadium
3. Asphalt batch plant
4. Automobile salvage yard
5. Concrete batch plant
6. Junk yards
7. Rifle/pistol ranges/gun clubs
8. Sanitary landfill

9. Off premises advertising signs
10. Water Towers

With accessory uses as authorized for permitted uses in the district provided, however, no on premises signs shall be permitted as an accessory use to an off premises advertising sign.

D. Bulk Requirements

1. Minimum lot area: 1 acre
2. Minimum lot frontage – on a public street measured at the front setback line 200’
3. Minimum set back:
  - a. front 50’;
  - b. side 50’;
  - c. rear 50’;
  - d. minimum structure at setback from any road designated as a principal arterial in the Menard County Comprehensive Plan – 75’ of which 50% shall be landscaped
5. Maximum height – Three story – 45’
6. Minimum parking – One space/300 square feet of floor area



### M-1 Manufacturing District

Menard County does not have a large number of manufacturing or industrial land uses and does not expect much activity of that type. To the extent that particular businesses do engage in manufacturing activities, the activities tend to be on small-scattered sites throughout the County.

The Comprehensive Plan recognizes the large manufacturing or industrial uses providing an economic benefit through the creation of jobs and the generation of tax revenues also have a significant impact on surrounding land uses than do most other commercial activities of a retail or service nature. The M-1 Manufacturing district is the zoning district intended to accommodate industrial and/or manufacturing uses to the extent that such development occurs.

## §6.10 PL PUBLIC LANDS DISTRICT REGULATIONS

### A. Purpose and Intent:

The purpose of the P-L Public Lands district is to promote the development of those land uses, which serve the general public as recreational, religious, educational, or psychological resources, while protecting existing public lands from incompatible developments.

### B. The following principal uses are permitted:

1. Amusement Center/Parks
2. Arena/stadium
3. Auditorium/amphitheaters
4. Business schools
5. Camp grounds
6. Churches and other place of public worship
7. College, university
8. Convention center
9. Country clubs & private golf courses
10. Courthouse
11. Dormitory residence hall
12. Electric power plants & substations
13. Fairgrounds
14. Fieldhouse
15. Fire station
16. Golf course, public
17. Gymnasium
18. Hospital

19. Junior college classroom building
20. Mental health facilities
21. Municipal building
22. Planetarium
23. Postal services/shipping/mailing
24. Race track/motor vehicle
25. Recreation center
26. School administrative offices
27. School bus garages and/or repair shops, public transit garages
28. Telephone exchange
29. Vocational school
30. Water filtration/treatment plants & elevated & underground storage tanks
31. Welfare agency
32. Zoo

The following accessory uses may be provided in connection with the foregoing principal uses:

- a. off street automobile parking for employees and customers;
- b. off street parking for delivery or other vehicles used in the trade or business;
- c. dumpsters for collection of refuse generated on site;
- d. open outside storage in fenced or screened areas containing not more than 25% of the lot area;
- e. on premises advertising signs meeting the requirement of Section 6.12.

The following accessory uses may be provided in connection with the foregoing permitted uses by special use permit only:

- a. Private Wind Energy Conversion System

C. The following principal uses are authorized by Special Use Permit:

1. Correctional institutions, detention centers & rehabilitation centers
2. Sanitary landfills

With accessory uses as permitted in the district.

D. Bulk Requirements

1. Minimum lot area: none
2. Minimum lot width: none
3. Setbacks: none except Private Wind Energy Conversion Systems shall be setback not less than 1.1 times the tower height from the necessary road right away of a public road (as measured from the center of the public road pavement), overhead utility transmission lines, communications towers and adjacent property lines.
4. Maximum height: none
5. Required parking: none

#### Public Lands District

Menard County recognizes that it is not the only government responsible to the people of the County. A number of other governmental and quasi-governmental organizations exist that own and use property in Menard County. The State owns substantial areas, school districts own and operate facilities, road districts, cemetery associations, and other areas of local government have, and use, land in the County.

While the County retains an appropriate role in setting such facilities, the County recognizes that the Owner, rather than the County, should be principally responsible for the operational aspects of the development that occurs on site. The public lands zoning district is designed to accommodate such public or quasi-public land uses.

INTENTIONALLY BLANK PAGE

## §6.11 PLANNED UNIT DEVELOPMENT (PUD)

### A. Purpose and Intent:

The purpose of the Planned Unit Development Regulations is to encourage and allow for more creativity and flexibility in the development of land than is possible under conventional zoning district regulations. The Planned Unit Development provides for more efficient use of the land and encourages development practices that are more sensitive to the site and surrounding environment. It is further intended that Planned Unit Developments are to be characterized by centralized ownership, integrated planning and architecture, joint or common use of parking, maintenance of open space and other similar facilities, and an appropriate selection and utilization of services.

1. The following objectives may be obtained through the use of the Planned Unit Development procedure:
  - a. To permit the public a greater choice of development options than would be possible under the strict application of the other sections of this Ordinance;
  - b. To promote the preservation of natural features and/or prime agricultural land;
  - c. To encourage development that is rational and economical in relation to public infrastructure and services;
  - d. To create a method for the permanent preservation of common open space; and
  - e. To encourage a land use which promotes the public health, safety, comfort, and welfare.
2. The unique and substantially different character of Planned Unit Developments requires their administrative processing as a “special use” in the ordinance. Planned Unit Developments are more complex and of a different character than other special uses, requiring the establishment herein of specific and additional procedures, standards, and exceptions to govern the recommendations of the Zoning Board of Appeals and the action of the County Board.

### B. General Provisions of PUDs: The basic provisions and requirements concerning Planned Unit Developments are as follows:

1. The subdivision, development and use of land as an integral unit, combining one or more of the following land uses which may provide for a single family residential, multiple family residential, educational, business, commercial, industrial, recreational, park and common open areas, may be described as a Planned Unit Development.
2. In its establishment and authorization as a special use, the procedures, requirements, restrictions, standards, and conditions listed in this chapter shall be observed.
3. The Residential Planned Unit Development is authorized as a Special Use in the RR, R-1, R-3, and B-1 Districts of this Ordinance and may contain mixed uses, provided that:
  - a. The non-residential structures comprise only ten percent (10%) of the square footage of the residential structures;

- b. The non-residential use is of a type that is either allowed by right or by special use in the underlying district; and
  - c. Non-residential uses shall be clustered wherever practicable.
4. The non-residential Planned Unit Development is authorized as a Special Use in the B-1, B-2 and M-1 Districts of this Ordinance.

C. Procedures and Requirements for Establishment of a Planned Unit Development:

1. An application for a Special Use permit shall be filed and processed by the Zoning Office in accordance with §10.01 SPECIAL USE REGULATIONS of this code.
2. Planned Unit Development Plat – The Special Use permit application shall be accompanied by a Planned Unit Development Plat, which meets the Preliminary Plat requirements of the Subdivision Ordinance in addition to the following:
  - a. The entire outline, overall dimensions and area of the tract described in the application.
  - b. The location, general dimensions and approximate gross floor areas of all proposed buildings.
  - c. The type of each use proposed to occupy each building and the approximate amount of building floor area devoted to each separate use.
  - d. The proposed location, arrangement and number of automobile parking spaces.
  - e. The location and dimensions of all vehicular entrances, exits, and driveways and their relationship to all existing or proposed public roads.
  - f. The location and dimensions of pedestrian entrances, exits and walks.
  - g. The location and dimensions of all walls, fences and planting designed to screen the proposed district from adjacent uses.
  - h. Standards for exterior lighting, location and type of exterior signs, and any other variables which will be controlled in the design of buildings in the development area.
  - i. Development Schedule – The applicant shall submit a proposed schedule of construction. If the construction of the proposed Planned Unit Development is to be in stages, then the components obtained in each stage must be clearly delineated. The development schedule shall indicate the starting date and the complete development plan.
  - j. It is the intent of the Code to require subdivision of property simultaneous with application for Special Use. The subdivision and/or platting of land as a planned unit development shall be subject to the requirements for approval and recording with the Menard County Recorder of Deeds as have been established by the Menard County Subdivision Ordinance adopted January 1, 1999.

D. General Development Provisions:

1. Setbacks – The front, rear and side setback shall be the same as the district in which they are located.

2. Spacing – The space between residential buildings – the minimum horizontal distance between buildings side to side shall be:
  - a. Ten (10) feet between single-family detached dwellings.
  - b. Ten (10) feet between clustered or “zero-lot line” single-family attached and detached dwellings.
  - c. Fifteen (15) feet between buildings, other than single-family detached dwellings.
3. Roadways – All roads shall be public roads, no private roads shall be permitted. Road design and specifications shall be in accordance with the Menard County Subdivision Ordinance.
4. Subdivision and Ownership – It shall be permissible within a Planned Unit Development to subdivide properties into lesser size parcels for individual ownership and create common open space areas in undivided proportions under joint ownerships. Such ownership arrangements are commonly defined as condominium and/or cooperative developments. The joint area of the project must, however, conform to the minimum area requirements established for the respective district.
5. Minimum Project size – Residential or commercial Planned Unit Developments shall not be applied to a parcel of land containing less than 5 acres.

E. Review and Evaluation:

- a) Standards – The Zoning Board of Appeals may recommend approval of a Planned Unit Development Special Use application if it has determined that all the of the following standards have been complied with:
  - a. Compliance with the requirements listed in §6.11 C (Procedures and Requirements for Establishment of a Planned Unit Development) and §6.11 D (General Development Provisions)
  - b. Comprehensive Plan – A Planned Unit Development must conform with the planning objectives specified in the Menard County Comprehensive Plan
  - c. Compatibility – the uses permitted in a Planned Unit Development must be of type and so located as to exercise no undue detrimental influence upon surrounding properties. In addition, the Planned Unit Development shall not endanger the public health, welfare, or safety, nor shall it substantially diminish or impair property values in the neighborhood in which it is to be located.
  - d. Need – the Planned Unit Development must be of a character and contain such uses that are needed in the area of the proposed project.
  - e. Density – the density of a Planned Unit Development (either in dwelling units for residential uses, or in floor area – for all other uses) shall generally correspond to the density regulations imposed by the underlying zoning district. The density of the Planned Unit Development is not necessarily required to precisely correspond with the normal density of the underlying zoning district but instead should reflect that district’s character through complimentary building types and architectural design.



- f. Design Standards – the Planned Unit Development shall comply with the provisions of the Menard County Subdivision Ordinance and Zoning Ordinance unless otherwise agreed to and approved by the County Board.
- g. A sufficient amount of usable open space is provided.
- h. The Planned Unit Development shall comply with all flood plain regulations as determined by the Menard County Flood Plain Ordinance.
- i. The development schedule ensures a logical development of the site which will protect the public interest and conserve land.

F. Amendments to a Planned Unit Development Special Use

1. The Planned Unit Development project shall be developed only according to the Special Use Permit Process as established in §10.01 (Special Use Regulations), the approved preliminary plat, and recorded final plat and supporting documents. The Special Use Permit and approved preliminary and final plats shall be binding on the applicants, their successors, grantees and assigns and shall limit their control, the use of the premises and location of structures in the Planned Unit Development project as set forth therein. Changes to the recorded Planned Unit Development may be made as follows:

- a. Major Changes – All major changes, including but not limited to ones listed herein below, shall be reviewed by the Zoning Administrator and Zoning Board of Appeals, and final approval shall rest with the County Board. An amended preliminary or final plat shall be submitted with accompanying supporting documentation. If changes are submitted prior to approval of a Final Plat, the procedure shall begin at the Preliminary Plat stage. If changes are submitted after approval of a Final Plat, the procedure shall begin at the Final Plat stage. All approved changes shall be recorded in the Menard County Recorder of Deeds office in accordance with the Menard County Subdivision Ordinance.
  - 1. Changes which alter the concept or intent of the Planned Unit Development
  - 2. Changes in density
  - 3. Changes in proposed open spaces
  - 4. Changes in road standards
  - 5. Changes in final governing agreements, provisions, or covenants
- b. Minor Changes – The Zoning Administrator may approve additional improvements or changes in a Planned Unit Development provided that such changes comply with the following:
  - 1. Comply with the general intent of the Planned Unit Development Special Use Permit
  - 2. The changes do not constitute a major change as defined in F 1 (a) above.
  - 3. The proposed changes must comply with the requirements of the underlying zoning district unless otherwise specified in the Planned Unit Development Special Use Permit.

INTENTIONALLY BLANK PAGE

INTENTIONALLY BLANK PAGE

## §6.12 SIGN REGULATIONS

§6.12-01 PUBLIC PURPOSE. There is a significant relationship between the manner in which signs are displayed and public safety, and the value and economic stability of adjoining property. The reasonable display of signs is necessary as a public service and to the conduct of competitive commerce.

### §6.12-02 GENERAL REQUIREMENTS

- A. All signs shall be in compliance with this ordinance.
- B. Permits Required. No person, firm, or corporation shall hereafter erect, construct, move, alter or maintain any sign or other advertising device upon any public or private property in the unincorporated portions of the County without first have obtained a permit from the Zoning Administrator unless otherwise authorized in the ordinance.
- C. Dangerous sign. Signs may pose a danger to people by obstructing views of pedestrians or drivers and may also pose a danger if such signs interfere with any fire escape or emergency exits or if the sign were to interfere with required ventilation.
  - 1. Proposed Sign. The Zoning Administrator shall not be obligated to issue a permit for the erection of construction or maintenance of any sign in any location where said sign will or might constitute a dangerous obstruction or the view or a menace to the people on any highway, sidewalk, path or street abutting thereon or a menace to people within a building.
  - 2. Existing Signs. If the Zoning Administrator finds that any existing sign or advertising structure poses a threat to public health and safety or has been constructed or maintained in violation of this ordinance, the Zoning Administrator may pursue the enforcement of this Code.
- D. Temporary Permits. Permits may be issued for a temporary sign for a short period of time not to exceed four weeks.
- E. No Alteration of Existing Signs. Every sign or other advertising lawfully in existence on the date of adoption of this ordinance shall not be altered or moved unless it be made to comply with the provisions of this ordinance.
- F. Sign Location. Every projecting sign erected or maintained over a public sidewalk shall be place not less than ten feet above the level of the sidewalk and at a distance not greater than eighteen inches from the face of the wall to which it is attached, measured from the point of the sign nearest thereto. The projecting sign or portion thereof shall not exceed more than eight feet from the structure to which it is attached or be nearer the curb line than two feet, whichever is less.

- G. Ground Signs. These signs may be erected parallel to or an angle with the adjoining street or streets so long as they do not project over the street, sidewalks, or other public places. These signs shall be subject to specific restrictions for the applicable zoning district.
- H. No Imitations of Public Signs. No sign or advertising structure shall be erected or maintained in such a manner as to be likely to interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
- I. Portable Signs. No portable sign shall be larger than 10 square feet. No portable sign shall be placed in or on, or immediately over any public street or right-of-way including public sidewalks.
- J. Vehicle Advertising. No person shall use the exterior of a truck, van, automobile, or tractor-trailer parked on public or private property for the exclusive purpose of advertising or directing people to a business. This is not intended to prohibit any form of signage on vehicles which are regularly and customarily used to transport persons or property.
- K. Height. No sign shall project higher than thirty feet above grade. Specific zoning district regulations in §6.12-03 may be more restrictive.
- L. Signs located in the “clear zone” shall be constructed utilizing “break-away” type poles for safety purposes. Determination of clear zones shall be made by the County Engineer.
- M. IDOT Approval. If the sign site is adjacent to a Federal Aid Primary Highway, (compliance with current IDOT regulations is required) and, if necessary, a copy of a valid Illinois Department of Transportation sign permit must be submitted to the Zoning Office. It is recognized that IDOT requires local zoning approval before they will issue a sign permit.
- N. Maintenance and Removal. The sign owner or the property owner shall be responsible for maintaining the sign and removing it should the business cease to exist. Failure to maintain or remove obsolete signs shall be considered a violation of this ordinance.
- O. Exemptions. The following signs are exempt from the regulations of this section:
1. Memorial and/or historical signs or tablets displayed on private property not exceeding six square feet in area.
  2. Address numerals and signs not exceeding one square foot in area and bearing the names of occupants of the premises.
  3. Government flags and insignia when not used for commercial purposes.
  4. Legal notices.

5. Government traffic and parking signs.
  6. Signs advertising the premises for sale or lease or for construction/architectural signs not to exceed nine square feet in area
  7. Signs advertising acreages of over twenty acres for sale or lease not to exceed twenty square feet.
  8. Temporary political signs. These signs are exempt provided they are erected no more than sixty (60) days before the election and provided that they are removed within six (6) days following the election.
  9. Signs of duly constituted governmental bodies.
  10. Flags of emblems of political, civic, charitable, educational, or religious organizations.
  11. Small signs displayed for the direction or convenience of the public, including signs that identify rest rooms, freight entrances, manager's office or the like with a total surface area of all such signs on a lot not to exceed ten square feet.
  12. No trespassing or no hunting/fishing signs or signs indicating private road or drive or driveway, provided the size of such a sign does not exceed two square feet.
- P. Signs of civic, charitable, educational or religious organizations shall meet all regulations of Section 6.12-02 except for the following regulations which shall be exclusive to such signs:
1. No individual civic, charitable, educational or religious organization sign shall exceed one hundred (100) square feet in sign area (per side), not counting the support structure.
  2. The maximum height of the top of the sign or support structure shall not be greater than twenty (20) feet.
  3. Setback: All portions of civic, charitable, educational or religious organization ground signs, including their pedestals, shall be set back from the road right-of-way a distance of ten (10) feet.
  4. Civic, charitable, educational or religious organization on-premise and off-premise signs shall be exempt from permit fees and shall be a permitted use in all zoning districts except the R-1, R-3 and Public Lands zoning districts where such signs shall be allowed as a permitted use for on-premise signs only and no off-premise signs shall be allowed.

5. In any zoning district in which the sign area and height requirements are more permissive than allowed in Section 6.12-02(P), the sign area and height requirements of that zoning district shall be allowed for civic, charitable, educational or religious organization on-premise and off-premise signs. No other district sign regulations shall apply to such signs.
  6. Whenever the applicant for a permit does not own the proposed site, a fully executed site lease or other proof of consent to erect and maintain a sign on the site must accompany the permit application.
- Q. Subdivision identification signs. Two (2) permanent subdivision identification signs, not exceeding fifty (50) square feet in sign area shall be allowed per approved subdivision. Where a subdivision has access on two (2) or more roads or has more than one (1) entrance on one (1) road, subdivision identification signs shall be allowed at each entrance. Maximum height of the top of the sign or support structure shall not be greater than 10 feet. Such signs shall be set back from the road right-of-way a minimum distance of ten (10) feet. Subdivision identification signs shall be allowed in the Rural Residential (RR), R-1, R-3, B-1 & B-2 zoning districts.

6.12-03 DISTRICT SIGN REGULATIONS.

A. Agricultural District Permitted Signs.

1. Crop identification signs up to six feet square.
2. Temporary signs connected with roadside stands from which products grown on the lot, parcel or farm upon which the roadside stand is located are sold, provided that such signs are removed November 30 of each year and not reinstalled before May 1 of the following year.
3. Advertising Signs: Advertising signs and outdoor billboards, which advertise products or services not related to the occupancy and use of the premises (off premises advertising signs) require a special use permit.
  - a. Area. No individual sign shall exceed the following maximum area requirements for signs readable and intended to be viewed from the following types of highways and streets:
    - (i) Federal Aid Primary Highways: 378 Square Feet.
    - (ii) Federal Aid Secondary and all County and Road District streets, highways and roads: 200 square feet
  - b. Whenever the applicant for a permit does not own the proposed site, a fully executed site lease or other proof of consent to erect and maintain a sign on the site must accompany the permit application.
  - c. Spacing: No billboard advertising sign shall be closer than six hundred (600) feet to another billboard type on the same street. Twin or back-to-back or V-type sign structures shall be considered one sign for purposes of this section.
  - d. Setback: All portions of advertising signs, including their pedestals, shall be set back from the street right-of-way a distance of ten (10) feet or one foot per twenty (20) square feet of sign area, whichever is greater.
  - e. Advertising signs shall be shielded whenever necessary to avoid casting bright light on any residential use or residential district.
  - f. No advertising sign (billboard) shall be located within 600 feet of any residential district.
4. Additional Signs. See exemptions in the general provisions above.



B. Residential Districts. See exemptions in the general provisions above.

1. Rural Residential (RR), R-1 & R-3 Zoning Districts: Advertising signs which advertise products or services not related to the occupancy and use of the premises (off premises advertising signs) require a special use permit in the Rural Residential Zoning District. Off-premise signs are not allowed in the R-1 & R-3 Zoning Districts.
  - a. Area. No individual sign shall exceed thirty-two (32) square feet in area (per side), not counting the support structure.
  - b. Maximum height of the top of the sign or support structure shall not be greater than 10 feet.
  - c. Whenever the applicant for a permit does not own the proposed site, a fully executed site lease or other proof of consent to erect and maintain a sign on the site must accompany the permit application.
  - d. Spacing: No advertising sign shall be closer than six hundred (600) feet to another sign on the same road. Twin or back-to-back or V-type sign structures shall be considered one sign for purposes of this section.
  - e. Setback: All portions of advertising signs, including their pedestals, shall be set back from the road right-of-way a distance of ten (10) feet.
  - f. Advertising signs shall be shielded whenever necessary to avoid casting bright light on any residential use.
  - g. No advertising sign shall be located within 600 feet of any residential dwelling. Compliance with this paragraph shall only be evaluated at the time of the initial permit application.

C. Business Districts.

1. B-1 Downtown Business:
  - a. When a sign is illuminated, direct rays of light shall not beam upon any part of any existing residential building, nor into a residential district, nor into a street right-of-way.
  - b. The gross surface area in square feet of all signs on a lot shall not exceed two times the lineal feet of frontage of the building or one hundred and sixty (160) square feet, whichever is less. Each side of a building which abuts upon a street shall be considered as separate frontage, and the gross surface area of all signs shall not exceed two times

the lineal feet of frontage or one hundred and sixty (160) square feet, whichever is less.

- c. One ground-mounted sign shall be permitted for each zoning lot. Such signs shall be limited to only one of the following: an individual business sign, a tenant directory, an advertising sign, or multiple use facility sign. Such signs shall not exceed eight feet in height and may not exceed a total gross surface area of thirty-two square feet. Minimum front yard setback shall be at one-half of the required front yard.
- d. Service stations: One additional pole sign per street frontage not to exceed twenty feet in height or eight feet in area, for the purpose of posting fuel prices.

2. B-2 Highway Business District:

- a. When a sign is illuminated, direct rays of light shall not beam upon any part of any existing residential building, nor into a residential district, nor into a street right-of-way.
- b. The gross surface area in square feet of all signs on a lot shall not exceed two times the lineal feet of frontage of the building or two hundred and thirty (230) square feet, whichever is less. Each side of a building which abuts upon a street shall be considered as separate frontage, and the gross surface areas of all signs shall not exceed two times the lineal feet of frontage or two hundred and thirty (230) square feet, whichever is less.
- c. One ground mounted sign shall be permitted for each zoning lot. Such signs shall be limited to only one of the following: an individual business sign, a tenant directory, an advertising sign or multiple use facility sign. Such signs shall not exceed thirty (30) feet in height and may not exceed the total gross surface area of one hundred (100) square feet. The front yard setback shall be a minimum of ten (10) feet.
- d. Service Stations: One additional pole sign per street frontage not to exceed twenty feet in height nor eight feet in area, for the purpose of posting fuel prices. The front yard setback shall be a minimum of ten (10) feet.

D. Manufacturing District: Same as B-2 Highway Business District above.

E. Public Lands: Same as B-2 Highway Business District above.

F. Bulk Regulations: Setback requirements, maximum height regulations, and gross surface area restrictions are to be considered bulk regulations and subject to the variance provisions in §12.01 of this Ordinance

INTENTIONALLY BLANK PAGE

## §6.13 MOBILE AND MANUFACTURED HOME REGULATIONS.

### A. Purpose and Intent

The following regulations are established to provide minimum standards for the placement of mobile home dwelling units and manufactured homes (not modular homes) in Menard County. Refer to each specific zoning district for permissibility of mobile homes. Mobile homes are not authorized in any district which does not list mobile homes as a principal use or special use. For the purposes of this ordinance, the terms “mobile home” and “manufactured home” are synonymous.

### B. Placing a mobile home dwelling unit in Menard County

1. The following requirements and standards must be met when placing a mobile home in Menard County:

#### Double-wide Mobile & Manufactured Home

- a) Minimum of a double-wide (multi-sectional) in the Rural Residential, B-1 Downtown Business District, and B-2 Highway Business District with the exception of the corporate boundaries of the Village of Tallula where single-wide manufactured/mobile homes shall be allowed.
- b) Constructed and/or manufactured within 15 years prior to the application for zoning permit
- c) Pitched roof
- d) Horizontal siding
- e) Tongue, hitch, and wheels removed
- f) Skirting in place, with no visible holes or gaps between grade and mobile/manufactured home
- g) Mobile/Manufactured home shall be tied/anchored down
- h) Have a minimum 500 square feet of inside living area exclusive of any decks and porches and be suitable for occupancy for one or more persons
- i) Comply with the applicable ordinances within the municipality in which the mobile home is to be located which regulate or otherwise provide for conditions regarding placement of a mobile home and/or trailer coach dwelling unit within the corporate limits of such municipality.

#### Single-wide Mobile & Manufactured Home

- a) Constructed and/or manufactured within 15 years prior to the application for zoning permit
- b) Tongue, hitch and wheels removed
- c) Skirting in place, with no visible holes or gaps between grade and mobile/manufactured home
- d) Mobile/Manufactured home shall be tied/anchored down

- e) Have a minimum 500 square feet of inside living area exclusive of any decks and porches and be suitable for occupancy for one or more persons
- f) Comply with the applicable ordinances within the municipality in which the mobile home is to be located which regulate or otherwise provide for conditions regarding placement of a mobile home and/or trailer coach dwelling unit within the corporate limits of such municipality.

C. Replacement of existing mobile home dwelling units

- 1. The following regulations apply when replacing an existing mobile home in Menard County:
  - a) An existing single-wide, in any zoning district, may be replaced with a single-wide of equal or larger size and must meet the applicable regulations of §6.13B, 1
  - b) Single-wides replaced with double-wides must meet the applicable regulations of §6.13B, 1
  - c) An existing double-wide may be replaced with a double-wide of equal or larger size and must meet the applicable regulations of §6.13B,1
  - d) Setback standards shall not be required to be met if the replacement mobile home is being relocated where existing utilities have been previously established, e.g., septic and well systems.
  - e) Complete any forms as required by this code and submit any required fees.

## §6.14 TELECOMMUNICATION FACILITIES

### A. Purpose and Intent:

The purpose and intent of the Telecommunications Facility section is to accommodate the communication needs of Menard County residents and businesses while protecting the public health, safety, and general welfare of the community. Co-location on a single tower of antenna and other equipment by multiple wireless phone companies is encouraged. Co-location of similar communication equipment by local utility companies and emergency services is also encouraged. The requirements of this section shall apply to communications facilities in all zoning districts.

### B. New Telecommunication Facilities

New Telecommunication Facilities are permitted in Menard County, subject to the following:

1. A facility is permitted if its supporting structure is a qualifying structure (as defined in 55 ILCS 5/5-12001.1) or if both of the following conditions are met:
  - a) The height of the facility shall not exceed 350 feet; and
  - b) The horizontal separation distance, as measured from the center of the base of the facility to the nearest vertical wall of a principal residential building shall not be less than the height of the supporting structure; except that if the supporting structure exceeds 99 feet in height, the horizontal separation distance to the nearest principal residential building shall be at least 100 feet or 80% of the height of the supporting structure, whichever is greater. Compliance with this paragraph shall only be evaluated as to the time that an application for a Zoning Permit for the facility is submitted. If the supporting structure is not an antenna tower, this paragraph is satisfied.
2. The following placement factors shall be considered:
  - a) A non-residentially zoned lot is the most desirable location.
  - b) A residentially zoned lot that is not used for residential purposes is the second most desirable location.
  - c) A residentially zoned lot that is 2 acres or more in size and is used for residential purposes is the third most desirable location.
  - d) A residentially zoned lot that is less than 2 acres and used for residential purposes is the least desirable location.

The size of a lot shall be the lot's gross area in square feet without deduction of any unbuildable or unusable land, any roadway, or any other easement.

3. The extent to which the design of the proposed facility reflects compliance with the following:

- a) No portion of a facility's supporting structure or equipment housing shall be less than 15 feet from the front lot line of the facility lot or less than 10 feet from any other lot line. Except as provided for in this section, no other yard or setback requirements shall be required.
  - b) Lighting should be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting should be shielded so that no glare extends substantially beyond the boundaries of a facility.
  - c) No facility should encroach onto an existing septic field or recorded easement.
  - d) Any facility located in a special flood hazard area or wetland should meet the legal requirements for those lands.
  - e) Existing trees more than 3 inches in diameter should be preserved if reasonably feasible during construction. If any tree more than 3 inches in diameter is removed during construction a tree 3 inches or more in diameter of the same or a similar species shall be planted as a replacement if reasonably feasible. Tree diameter shall be measured at a point 3 feet above ground level.
  - f) If any elevation of a facility faces an existing, adjoining residential use within a residential zoning district, low maintenance landscaping should be provided on or near the facility lot to provide at least partial screening of the facility.
  - g) Fencing should be installed around a facility. The height and materials of the fencing should be in accordance with any county fence regulations of general applicability.
  - h) Any building that is part of a facility located adjacent to a residentially zoned lot should be designed with exterior materials and colors that are reasonably compatible with the residential character of the area.
  - i) A facility may be located on the same zoning lot as one or more other structures or uses without violating any ordinance or regulation that prohibits or limits multiple structures, buildings, or uses on a zoning lot.
  - j) No minimum lot area, width, or depth shall be required for a facility, and unless the facility is to be manned on a regular, daily basis, no off-street parking spaces shall be required for a facility. If the facility is to be manned on a regular, daily basis, one off-street parking space shall be provided for each employee regularly at the facility. No loading facilities are required.
  - k) No bulk regulations or lot coverage, building coverage, or floor area ratio limitations shall be applied to a facility or to any existing use or structure coincident with the establishment of a facility. Except as provided in this Section, no height limits or restrictions shall apply to a facility.
4. Unless a facility is permitted under paragraph (1) of this subsection (B), a facility can be established only after the county board gives its approval following consideration of the provisions of paragraph (5) of this subsection (B). The county board may give its approval after one public hearing on the proposal, but only by the favorable vote of a majority of the members present at a meeting held no later than 75 days after submission of a complete application by the telecommunications carrier. If the county board fails to act on the application within 75 days after its submission, the application shall be deemed to have been approved. No more than one public hearing shall be required.

5. For purposes of paragraph (4) of this subsection (B), the following site considerations, but no other matter, shall be considered by the county board or any other body conducting the public hearing:
  - a) the criteria in paragraph (2) of this subsection (B);
  - b) whether a substantial adverse effect on public safety will result from some aspect of the facility's design or proposed construction, but only if that aspect of design or construction is modifiable by the applicant;
  - c) the benefits to be derived by the users of the services to be provided or enhanced by the facility and whether public safety and emergency response capabilities would benefit by the establishment of the facility;
  - d) the existing uses on adjacent and nearby properties; and
  - e) the extent to which the design of the proposed facility reflects compliance with paragraph (3) of this subsection (B).



INTENTIONALLY BLANK PAGE

## ARTICLE VII

### §7.01 AMENDMENTS OF REGULATIONS AND DISTRICTS

#### Zoning Amendments

A property owner owns property zoned R-1, Residence District. He wants to build and operate a convenience store. The zoning code only authorizes convenience stores in the B-1, Downtown Business District and the B-2 Highway Business District. The Code also authorizes gas stations, nightclubs, and a number of other “more objectionable” uses in those zoning districts.

The applicant appears before the Zoning Board of Appeals and “promises” that if the property is zoned a B-1, he will operate a convenience store from a facility that looks exactly like the one depicted in the beautiful color rendering he presented at the Zoning Board of Appeals meeting. He also promises to operate the facility himself in a “good Neighborly” fashion and states unequivocally that he won’t ever use the property in a way that is objectionable to his neighbors.

Several neighbors appeared at the Zoning Board of Appeals hearing. They agree that a convenience store like the one the applicant proposes would be a nice addition to their neighborhood. They would not, however, want a gas station or a nightclub. They also trust their friend and neighbor but wouldn’t have the same comfort level if the applicant were some out-of-town institutional owner. Can the County Commissioners grant a rezoning to B-1 in a way that requires the applicant to use the property in a way he “promises”?

Generally, zoning can’t be “conditioned” or be made “contingent” upon certain things happening. If the property is rezoned, it can be used for any purpose authorized in the new zoning classification. Similarly, zoning isn’t limited to the particular “applicant” but runs with the land and is available to any subsequent owner.

What other options might be available?

1. Use a piece of ground already zoned B-1
2. Amend the text of the zoning ordinance to permit convenience stores in the residentially zoned areas either as a permitted or special use.
3. If the text amendment is made to make convenience stores a permitted use in the R-1 District, the applicant (or any other person) can then proceed as a matter of right (at that or any other location zoned residential).
4. If the text amendment is made to make convenience stores a special use in the R-1 District, the text amendment will enumerate standards that must be met. The applicant, or any other person, can then make applications for a special use permit at that or any other location zoned residential. If after public hearing before the Zoning Board of Appeals that applicant satisfies the Zoning Board of Appeals and County Commissioners that the standards set fourth in the Zoning Code for the special use permit have been met, then the permit issued, and a convenience store can be built as proposed. (see special use Permit example)

A. Authority. To accomplish the purposes of this Code, the Board of County Commissioners may, from time to time, in the manner hereinafter set fourth, amend the regulations and the Zoning Districts established by this Code, provided that in all amendments adopted under the authority of this Section, due allowance shall be made for the existing condition, the conservation of property values, the direction of building development to the best advantages of the entire County and the use to which the property is devoted at the time of the adoption of such amendments.

B. Initiation of Amendment. Amendments to the districts established hereby may be proposed by the County Commissioners, the Zoning Administrator at the direction of the County Commissioners, or by the owners of, or parties to a valid and enforceable purchase option contract applicable to, the property proposed for rezoning. Amendments

to the regulations imposed hereby, that is, zoning text amendments, may be proposed by the County Commissioners, by the Zoning Administrator at the direction of the County Commissioners.

C. Procedure.

1. Application for Amendment. All requests for zoning amendments other than those submitted by or at the direction of the County Commissioners shall henceforth only be accepted when filed on proper application forms submitted to the Zoning Administrator and upon payment of the required fee. When such applications are required, the information requested on them is deemed to be a minimum and applicants may be requested to supply additional information prior to the hearings on their requests. Such forms shall be filed in duplicate as prerequisite to the commencement of any such action on the part of Menard County. The Zoning Administrator shall, upon receipt of the properly completed applications for zoning amendments, forward a copy of the application to the Zoning Board of Appeals and Planning Commission.
2. Notification and Hearing Procedure. The Zoning Board of Appeals and Planning Commission shall give notice and hold legislative public hearings on each request for a zoning district or zoning text amendment, in the manner provided by Section XIII B3c of this Code.
3. Recommendation by the Zoning Board of Appeals & Planning Commission.
  - a. Text Amendments. In making its recommendation on zoning text amendments, the Zoning Board of Appeals and Planning Commission shall endeavor to accomplish those purposes for which this Code was adopted and shall not recommend the adoption of an amendment unless it finds that such is in the public interest.
  - b. District Amendments. In making its recommendation on zoning district amendments, the Zoning Board of Appeals and Planning Commission shall be guided by those purposes for which this Code was adopted and in making its recommendation, may consider the following:
    - (1) The suitability of the subject property for uses authorized by the existing zoning;
    - (2) The length of time the property has remained vacant as zoned considered in the context of land development in the area;
    - (3) The suitability of the subject property for uses authorized by the proposed zoning;
    - (4) The existing land uses of nearby property;

- (5) Existing zoning of nearby property;
- (6) Relative gain or hardship to the public as contracted and compared to the hardship or gain of the individual property owner resulting from the approval or denial of the zoning amendment application.
- (7) Consistency with the Comprehensive Plan.
- (8) The following guidelines, in addition to the above, are applicable to amendments involving specific zoning districts:
  - (a) to or from the A-Agricultural District
    - (i) the predominant soil type and/or productivity of the land
    - (ii) the shape and configuration of the parcel
    - (iii) the slope, grade and topography including the likelihood of erosion
    - (iv) the proximity to flood hazard boundary areas
  - (b) to or from RR-Rural Residential
    - (i) the predominant soil type and/or productivity of the land

Even marginal or unproductive land may not be suitable for rezoning to RR-Rural Residential if:

- (a) the slope, grade and topography creates the likelihood of erosion,
- (b) the site is unsuited for private sewage disposal
- (c) the site is subject to flood hazard

#### SPOT ZONING

By its very nature, the RR-Rural Residential Zoning District will create isolated areas (spots) of land zoned for residential use in large areas of land otherwise zoned and used for agricultural purposes. It is the intent of the County Commissioners to determine the appropriateness (or inappropriateness) of requests for rezoning to the RR-Rural Residential District, principally on the productivity of the soil rather than on the use or zoning of surrounding property or other comparable standards or guidelines which would otherwise make “spot zoning” objectionable.

- (c) To or from R-1 Single Family Residence District:
  - (i) proximity to the corporate limits or a municipality
  - (ii) proximity to public water
  - (iii) proximity to public sanitary sewer
  - (iv) configuration, topography, suitability of soil and other factors that might influence or effect private sewage disposal systems
  - (v) proximity to property zoned or used for commercial, industrial or public lands purposes
  - (vi) proximity to public police, fire, rescue, library, school and park facilities
  
- (d) To or from R-3 Multiple Family Residence District
  - (i) proximity to the corporate limits of a municipality
  - (ii) proximity to public water
  - (iii) proximity to public sanitary sewer
  - (iv) proximity to police, fire, rescue, library, school and park facilities
  - (v) proximity to convenient shopping
  - (vi) proximity to commercial, industrial, or public lands uses
  - (vii) adequacy of adjacent public streets to handle traffic reasonably expected from multiple family development
  
- (e) To or from B-1 Downtown Business District
  - (i) proximity to other downtown commercial zoning and/or land uses
  - (ii) proximity to public parking

- (iii) adequacy of adjacent public streets for traffic reasonably expected to be generated from commercial use
    - (iv) proximity to residential zoning and/or land uses
  - (f) To or from B-2 Highway Business District
    - (i) Size and configuration of the parcel and suitability of the parcel to provide on-site parking and all other reasonably expected accessory uses on site without impact on neighboring properties
    - (ii) proximity to other highway business uses
    - (iii) adequacy of adjacent public streets
    - (iv) proximity to residential development
  - (g) To or from M-1 Manufacturing District
    - (i) size and configuration of all parcels and suitability of the parcel to accommodate all required parking and other reasonably expected accessory uses on site without impact on neighboring properties
    - (ii) proximity to public water and sanitary sewer
    - (iii) adequacy of adjacent public streets
    - (iv) prevailing wind direction
    - (v) proximity to residential development
  - (h) To or from PL Public Lands District
    - (i) identity of the public body owning, using or developing the property
    - (ii) adequacy of adjacent public streets
    - (iii) proximity to public water and/or sanitary sewer
    - (iv) proximity to residential zoning or land uses
-

“Contract or Contingent Zoning”

Zoning regulations like most “police power” laws must treat similarly situated people and property essentially the same. Zoning codes divide the County into zoning districts and establish rules and regulations which are intended to apply fairly and uniformly within each district/ Predictability and consistency are goals of a zoning code. “Contract” zoning, “conditional” zoning or “rezonings with site-specific conditions are not uniform in their application. By their very nature they are zoning by agreement and as such are seen as an improper “bartering away” of government’s authority to regulate on behalf of the general public. Zoning law, in essence, becomes “let’s make a deal”. Menard County does not utilize contract or contingent zoning.

D. Decisions by the County Commissioners.

1. The County Commissioners upon receiving the report and recommendation of the Zoning Board of Appeals and Planning Commission, as an exercise of the legislative discretion vested in the Board of Commissioners of Menard County, may grant or deny the requested text or district amendment.
2. Parties (both proponents and opponents) to pending zoning matters should present evidence and make arguments in the established public hearing process in accordance with Rules of Procedure adopted by the Board and not outside that process.

Legislative Subjects For Inquiry

In considering requests for rezoning, it is appropriate for the Zoning Administrator, Zoning Board of Appeals, Planning Commission, and County Commissioners to ask questions like the following:

1. If this property is rezoned, are there things that can lawfully occur on adjoining or nearby property that will impact or harm uses that might lawfully occur on the property under consideration? Or stated in the reverse, if this property is rezoned, are there things that can lawfully occur on the rezoned property that will impact or harm uses that might occur on adjoining or nearby properties? Such “things” could include noise, light, dust, smell, water run-off, visual impact, traffic (both volume and type) and intensity of land use (again as a comparative measure).
2. Are there circumstances unique to the site under consideration that mitigates against such land use conflicts? “Circumstances, might include such things as topography, prevailing wind direction, site size, berming, landscaping, etc.
3. Does the proposed rezoning create a precedent that will be difficult to distinguish from other similar requests?
4. Does this rezoning move the County a way or direction consistent with the goals and objectives articulated by the County in the comprehensive plan and purpose and intent section of this ordinance?

3. In case of a written protest against any proposed district (map) amendment that is either: (A) signed by the owner or owners of at least 20% of the land to be

rezoned, or (B) signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from at least 20% of the perimeter of the land to be rezoned, or in cases where the land affected lies within 1 ½ miles of the limits of a zoned municipality, or in the case of a proposed text amendment to the Zoning Ordinance, by resolution of the corporate authorities of the zoned municipality with corporate authorities of the zoned municipality with limits nearest adjacent, filed with the County Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of the County Commissioners. In such cases, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.



INTENTIONALLY BLANK PAGE

## ARTICLE VIII

### §8.01 PERMITTING

#### A. Authority.

1. The issuance of a zoning permit by the Zoning Administrator is a pre-requisite to lawful development.
2. The issuance of an occupancy permit by the Zoning Administrator is a pre-requisite to the lawful use or occupancy of property.
3. No new permitting shall be required by the adoption of the code for the continuation of existing uses.
4. Permitting for land and buildings devoted to agricultural purposes shall be limited to determination of principal use and building and setback compliance. No permits shall be required for fences when the principal use of a property is a farm and devoted to agricultural purposes.

#### B. Initiation.

1. Zoning and occupancy permits may be requested by the owner of the property involved or any person authorized by the owner.

#### Permits Narrative

To insure compliance with the zoning code, Menard County requires a two-step permitting process for any new development. Development is defined broadly to include any new principal use and any new or modification of an existing principal or accessory building. The process includes:

1. The issuance of a zoning permit, i.e. authorization to devote land to a new use or develop land in a particular way. At this stage, the applicant must demonstrate to the satisfaction of the Zoning Administrator that the proposed development is or will be in compliance and conformance with the requirements of this code and shall include a certification from the owner to that effect.
2. The issuance of an occupancy permit authorizing the occupancy or use of land as described in an approved zoning permit. At this stage, the applicant must demonstrate to the satisfaction of the Zoning Administrator that the development has been constructed or converted in the manner described in the approved zoning permit. The application for an occupancy permit shall include a certification from the owner as to compliance with all applicable codes and requirements.

#### C. Procedure.

1. Application.
  - a. Zoning Permit – an application for a zoning permit shall be initiated by filing in duplicate a written permit application in the form required by the Zoning Administrator and the payment of the required fee. Upon receipt of a completed application and payment of the required fee, the Zoning Administrator shall process the request for a zoning permit.

- b. Occupancy Permit – an application for an occupancy permit shall be initiated by filing with the Zoning Administrator in duplicate a Certificate of Completion and Conformance and the payment of the required fee. Upon submission of an application for an occupancy permit and the payment of the required fee, the Zoning Administrator shall process the application for an occupancy permit.

D. Standards in Granting or Denying Permits.

1. The Zoning Administrator shall grant a zoning permit if the following standards are met and shall deny the permit if they are not:
  - a. property is appropriately zoned for the proposed use;
  - b. that any required special use permit or variation has been obtained;
  - c. that the proposed use conforms with all required bulk regulations;
  - d. that the proposed use complies with any conditions imposed by any approved special use permit, variation or site plan;
  - e. that the proposed use is otherwise in compliance with this code;
  - f. receipt of appropriate Health Department and appropriate road district or highway official signoff.
2. Occupancy permits shall be granted if the following standards are met and denied if one or more are not met:
  - a. that the use was built in conformance with the approved zoning permit;
  - b. that the use as built complies with the requirements of this code.
3. Permit applications not acted upon within 90 days from the date of their submission shall be deemed denied.
4. Decisions by the Zoning Administrator in granting or denying permits are subject to appeal under the provisions of this Ordinance.
5. Expiration. Zoning Permits will expire 90 days after issuance unless work has progressed and is being pursued with diligence. A request for an occupancy permit must be made within one year from the issuance of a zoning permit. If not, the zoning permit expires.

## Other Permitting

Menard County is not the only governmental entity that regulates the use of land. It is the responsibility of the property owner and developer of the property to ascertain what other regulatory authorization is necessary in order to undertake development and to comply with all such regulations. It is not the responsibility of the Zoning Administrator or any other Menard County official to advise or assist owners or developers in achieving compliance. Property owners and developers are cautioned not to rely on any advice or assistance that is gratuitously offered. Public servants don't have the authority to relax, waive, or ignore the laws, codes or ordinances of the County or any other governmental entity and the general public generally can't be prevented from enforcing its laws or ordinances simply because of the acts or omissions of a public employee or official.

Owners and developers should pay particular attention to the following permitting responsibilities:

1. Applicable Road District Commissioner – Access, culvert location, drainage/detention and improvement obligation for District Roads
2. Menard County Engineer – Access, culvert location, drainage/detention and improvement obligation for County Highways
3. Illinois Department of Transportation – Access, culvert location, drainage/detention and improvement obligation for State Routes
4. Menard County Health Department (water wells and septic systems, all food and beverage handling)
5. Illinois Environmental Protection Agency – Community water and sewage treatment facilities and noise and air, water, and land quality regulation
6. Illinois Department of Natural Resources (IDNR) (flood plain permits, endangered species {520 ILCS 10/11 et seq.}) and Office of Mines and Minerals – permitting and operational aspects of mining/sand/gravel – The Illinois Endangered Species Protection Act requires consultation between local governments and IDNR where development authorized by local government is likely to jeopardize the existence of endangered species or habitat. Menard County places the responsibility for obtaining IDNR sign-off on the developer.
7. State of Illinois Historic Preservation Authority (historic preservation and artifact signoff)
8. Federal Emergency Management Agency (FEMA) (flood hazard boundaries)
9. Plat act compliance – Menard County Recorder of Deeds
10. County and Municipal subdivision regulation – applicable local official

INTENTIONALLY BLANK PAGE

## ARTICLE IX

§9.01 NON-CONFORMITIES. If lawful lots, structures or uses are made unlawful by the adoption or amendment of this code they shall become non-conformities. It is the intent of this Code to permit non-conformities to continue until they are removed but not to encourage their survival. It is further the intent of this code that non-conformities shall not be enlarged upon, expanded, or extended, nor be uses as grounds for creating other unlawful lots, structures or uses except as permitted in this Article of the Zoning Code. There are three categories of nonconformity:

1. Lawfully created lots that do not meet the current size or configuration requirements of this Code.
2. Lawfully existing uses that are not permitted by this Code.
3. Lawfully existing buildings that do not meet the bulk requirements of this code.

### A. Non-Conforming Lots.

1. In any district in which buildings or structures are permitted such buildings or structures may be erected on a lot which becomes non-conforming as to lot area or lot width or both by the adoption or amendment of this Code provided:
  - a. applicable yard requirements are met;
  - b. that if such non-conforming lot of record, at the time of adoption of this Code or amendment, is vacant and is contiguous with one or more other vacant conforming or non-conforming lot or lots which are in common ownership or unified control, then such contiguous lot or lots or at least such portion thereof as is necessary to meet or exceed the minimum lot area and width requirements of the district in which they are located shall be uses and developed only as a single lot.

See Common Ownership or Unified Control Example  
§2.03 B3

2. Any person who conveys property or terminates the unified control of such contiguous lots of record so as to frustrate the purpose of the foregoing provision shall be deemed to have violated the provisions of this Code.
3. Converted farm residences may be split from existing non-conforming farm properties in the A-Agriculture District, provided that all bulk regulations applicable to converted farm residences are met and the remaining farm parcel is not less than one acre. The remaining non-conforming farm parcel, having been established after the adoption of this code on January 1, 1999 shall not be permitted to be used for residential purposes.

- B. Non-Conforming Uses. Where a lawful use exists at the effective date of adoption or amendment of this Code which would not be permitted by the regulations imposed, the use may be continued so long as it remains otherwise lawful, provided:
1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or greater portion of any building than was occupied at the effective date of adoption or amendment of this code.
  2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this code.
  3. If any such non-conforming use of land alone ceases for any reason for a period of more than thirty (30) consecutive days, any subsequent use of such land shall conform to the regulations specified by this code for the district in which such land is located. This thirty (30) day time limitation shall be considered a bulk regulation and therefore subject to the variance process described in §12.01 VARIATIONS in this ordinance.
  4. When a non-conforming use of a structure, or structure and land in combination, ceases for eighteen (18) consecutive months or for eighteen (18) months during any three (3) year period the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located. No intention to abandon shall be required. This eighteen (18) month time limitation shall be considered a bulk regulation and therefore subject to the variance process described in §12.01 VARIATIONS in this ordinance.
  5. Any conforming structure containing a non-conforming use, may be maintained and repaired.
  6. If any principal use of a lot in the A-Agricultural District or RR Rural Residential District is non-conforming as to lot area, width or configuration that use (including authorized accessory uses) may be repaired, replaced in the event of casualty loss, expanded and enlarged even if the extent of non-conformity in lot area is increased and provided the non-conformity is not increased in any other way.
- C. Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this code which could not be built under the terms of this code by reasons of bulk restrictions, restrictions on lot coverage, height, yards, location on lot or other zoning requirements concerning the lot or structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
1. A non-conforming structure may not be enlarged or altered in a way which increases its non-conformity, but may be enlarged or altered in a way that is conforming.

2. Any non-conforming structure may be maintained and repaired to an extent not exceeding fifty (50) percent of the fair cash market value of the structure before repair. Should a non-conforming structure deteriorate or be damaged or destroyed to an extent of more than fifty (50) percent of its prior fair cash market value it shall not be reconstructed except in conformity with the provisions of this Code. This provision shall not apply to Residential buildings in the A-Agricultural, RR Rural Residential or R-1 Single Family Residential districts or B-1 Downtown Business.
3. Should such non-conforming structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.



Non Conformities  
Basic Facts

A 135' x 100' parcel of land with a metes and bounds description is zoned R-1 and is improved with a one-story 30' x 60' building. The building is used as a single-family owner-occupied residence. The building is 10' from the front property line and 2' from the side property line. A gravel driveway and parking lot with two spaces is on the west side of the building. The parking lot is located 25' from the front property line. The lot, use, and building were all established before Menard County has a zoning ordinance.

Analysis

1. The lot is lawful (it meets or exceeds the minimum lot size requirements in the R-1 zoning district).
2. The use is lawful (single family residential use is permitted in the R-1 zoning district).
3. The structure is lawful but non-conforming. It does not meet the front and side yard requirements of the new code. It does meet the rear yard and off-street parking requirements of the new code.

Altered Facts

1. Instead of an owner-occupant, the property is rented to a single mother with three children.

Altered Analysis

1. None, the renting of property does not change the analysis.

Altered Facts

1. The use is as a grocery store rather than as a single-family residence.

Altered Analysis

1. The use is lawful but non-conforming. Grocery stores are not a permitted use in the R-1 zoning district.
2. The structure is lawful but non-conforming. It does not meet the front and side yard requirements of the new code. It does meet the rear yard requirements. It does not meet the off-street parking requirements in that the new code required 6 (one space/300 sq. ft. of gross floor area – spaces for an 1800 square foot grocery store but only 3 are provided. The building could be expanded to the west. The building could be expanded to the north, provided the expansion was at least 7' (the required side yard) distance from the east property line and provided the expansion did not encroach into the 30' required rear yard. The parking lot could be expanded to the north and/or west.

Altered Facts

1. The property is zoned B-1 general business district. In addition to the grocery store, a 15' high x 30' long billboard advertising "Eat at Joe's" exists 10' from the west line and 25' from the south line.

Altered Analysis

1. A determination needs to be made which use (the grocery or billboard) is the "principal use". Assuming the principal use of the property is the grocery store, that use remains lawful (grocery stores permitted in the B-1 zoning district). The building remains non-conforming (does not meet the front and side yard requirements). The billboard, although a conforming structure (one that meets the front, side and rear yard requirements) constitutes a lawful but non-conforming use, i.e. billboards are not an authorized principal use in the B-1 zoning district. Off premises advertising signs are not an authorized accessory use in the B-1 district.

Altered Facts

1. The property is zoned RR Rural Residential. The lot is used as the site for a mobile home dwelling. The lot is non-conforming as to lot area. The home can be expanded even though the extent of non-conforming in lot area will increase, provided the Code's other bulk regulations are met.

## ARTICLE X

### §10.01 SPECIAL USE REGULATIONS

- A. Purpose. Certain uses of land, by their very nature, and because of their unique characteristics cannot be permitted in a particular zoning district without special consideration being given to the characteristics of surrounding property, the characteristics of the site itself and the impact such a use would have on adjoining or nearby property. The Zoning Code authorizes some such uses by special use permit. The purpose of this section is to specify standards that must be met before the issuance of a special use permit. In addition to the underlying zoning district regulations and the general standards applicable to all Special Use requests, each Special Use shall meet the specific standards set fourth for that particular use and any conditions imposed by the County Commissioners in the ordinance granting the Special Use Permit.

Special Uses fall into two categories:

1. Uses publicly operated or traditionally affected with a public interest.
  2. Uses entirely private in character, but of such a nature that their existence or operation may uniquely impact neighboring property or public facilities.
- B. Initiation of Special Use Applications. Applications for special use permits may be initiated by the County Commissioners; the Zoning Administrator, at the direction of the County Commissioners, the owner of, or a party to a valid and enforceable purchase option contract pertaining to, the property to which the special use permit will be attached.

## Special Use Permit

Counties have no specific statutory authority to create or utilize special use permits. Nevertheless, the Illinois Supreme Court has found implicit authority, see Kotrich v. County of DuPage, 19 Il. 2d 181, 166 N.E. 2d 601 (1960). The court held: “instead of excluding such uses entirely from certain zones because of the harm they might cause or, despite the potential harm, including them because of the benefit they will bring, the special use technique allows a more flexible approach. It contemplates that the County Board may permit the uses where desirable and if necessary impose conditions designed to protect nearby property owners. This seems to be an effective method of dealing with a narrow but difficult problem of land use control.”

Special uses are admittedly “difficult”. They have been used to solve a variety of land use problems and their application has become anything but “narrow”; prompting at least one commentator to suggest, no doubt facetiously, that counties should “make every use a special use” as a way of avoiding judicial constraints on conditional or contract zoning.

There is a split of judicial authority on whether a special use permit is “legislative” like a zoning map or text amendment or administrative or quasi-judicial like a “variation”. Menard County has opted to characterize special use permits as legislative. Special use permits involve 3 steps.

1. The County’s legislative discretion is exercised when the zoning text is adopted to create the special use category and to establish the conditions which must be met to obtain the permit.
2. The process through which a specific request for a special use permit is reviewed and recommended for approval or denial is administrative or quasi-judicial, i.e. does the factual evidence presented show that the standards have, or can be, met through the imposition of certain conditions. That fact-finding responsibility rests with the Zoning Board of Appeals.
3. The decision to deny, grant or grant with conditions the requested special use permit is a legislative decision that rests with the County Commissioners.

### C. Processing.

1. Application for a Special Use. All requests for Special Use Permits other than those initiated by the County Commissioners or by the Zoning Administrator at the direction of the County Commissioners shall only be accepted when filed on the proper application forms submitted to the Zoning Administrator, which application form shall require the submission of a sketch plan drawn to scale showing the location and dimensions of all existing and proposed buildings, structures, driveways, parking areas with spaces marked and numbered, light poles or fixtures, landscaping that which is to be planted and such existing landscaping as is to be retained. Where such applications are required, the information request on them is deemed to be a minimum and applicants may be required to supply additional information prior to hearings on their requests. Such forms shall be filed in duplicate as a prerequisite to the commencement of any action on the part of Menard County except that if the sketch plan is filed on anything other than 8 ½ x 11-inch paper, 15 copies shall be submitted. The Zoning Administrator shall forward a copy of the application to the Zoning Board of Appeals.
2. Notification and Hearing Procedure. The Zoning Board of Appeals shall give notice and hold at least one (1) administrative public hearing on the proposed Special Use in the manner provided in Section XIII B3b. If variations to the bulk, sign and off-street parking regulations of this code would otherwise be necessary for the development proposal, such proposal shall be exempt from the

administrative public hearing on the variation request and such review procedure shall be deemed to occur simultaneously with the Zoning Board of Appeals' administrative public hearing and recommendation on the Special Use Permit application.

3. Action by Zoning Board of Appeals.
  - a. Findings of Fact. No Special Use Permit shall be recommended by the Zoning Board of Appeals until written Finding of Fact are made indicating:
    - (1) The extent to which the general special use standards specified in Section 10.01 D1 are met;
    - (2) The extent to which the specific special use standards enumerated in Section 10.01 D2 are met;
    - (3) Recommendations, if any, of conditions deemed reasonably necessary to meet any or all of such general or specific special use permit standards;
  - b. The Zoning Board of Appeals shall transmit its findings of fact and recommendations to the County Commissioners.
4. Decision. The County Commissioners may grant, grant with conditions, refer to the Planning Commission for additional public hearing or deny any application for a Special Use Permit after receiving the report of findings and recommendation of the Zoning Board of Appeals including the recommendation of the Zoning Board of Appeals and any recommended stipulations of additional conditions and guarantees deemed necessary for the protection of the public interest and/or to insure conformance with general or specific Special Use Permit standards. The County Commissioners shall specify stipulations and conditions in the resolution granting the Special Use Permit.
5. Minor Changes. Minor changes in the location, siting, and height of structures may be authorized by the Zoning Administrator, however, no such change may involve a change in the character of the development, or a substantial increase in the intensity of use, reduction of parking spaces, or landscaping requirements.
6. Major Changes. Decisions concerning major changes in the location, sitting and height of structures, any change in the character of the development or a substantial increase in the intensity of use, reduction of parking spaces, or landscaping shall be made by the County Commissioners, after the Zoning Board of Appeals conducts an additional administrative public hearing and submits a recommendation on such proposed changes or deviations. In all major changes, the Zoning Board of Appeals and the County Commissioners shall apply the standards set forth in this Division for special uses.

D. Standards.

1. General Standards. Standards applicable to all Special Use include the following:
  - a. Ingress and egress to property and proposed structures shall be located and designed in a manner which will maximize automotive and pedestrian safety and convenience, facilitate traffic flow and control and provide easy and adequate access in regular use and in case of fire or other catastrophe;
  - b. Off-street parking and driveway areas where required or provided, shall be located and designed in a manner which will maximize the items referred to in Paragraph (a) above and will minimize any adverse economic, noise, glare or odor effects of the special use on adjoining or nearby properties;
  - c. Refuse and services areas, if provided, shall be located and designed in a manner so as to accomplish the objectives specified in paragraphs (a) and (b) above;
  - d. Utilities provided in connection with the special use shall be designed and located so as to encourage the efficient and economic utilization, extension and expansion of the public utility system;
  - e. Landscaping screening and buffering materials shall be sufficient to insure that the proposed special use will have no greater impact on surrounding land uses than other uses authorized as a matter of right;
  - f. Signs of proposed exterior lighting, if any, shall be located and designed to maximize traffic safety and compatibility and harmony with adjoining or nearby properties and so as to minimize glare, noise and adverse economic impact on surrounding properties or authorized land uses;
  - g. Required yards and open spaces shall be sufficient to insure that the proposed special use will have no greater impact on surrounding land uses than other uses authorized as a matter of right;
  - h. The site on which the special use is located shall be designed to make the proposed use generally compatible with adjoining or nearby properties;
  - i. The special use shall in all other respects conform to the applicable regulations of the district in which it is located and of the entire zoning code, except as such regulations may in each instance be modified by the County Commissioners pursuant to the recommendations of the Zoning Board of Appeals.

2. Specific Standards. The purpose of this Section is to specify additional standards that must be met before the issuance of certain enumerated Special Use Permits. In addition to the standards summarized in this Section, each Special Use applicant shall show that the Special Use requested conforms specifically, or by necessary implication, to the general standards for evaluation of a Special Use as stated in Section 10.01 D1 of this Code.
  - a. Agriculture and Horticultural Fairs, Displays, Shows and Exhibits, Arenas/Stadiums, Race Track/Motor Vehicle, Rifle/Pistol Range/Gun Club/Public Golf Course.
    1. That the proposed use is by an owner/applicant with sufficient financial means and resources to protect the public from the risk of harm reasonably anticipated from the proposed use.
    2. That the proposed use is by an owner/applicant with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and there will be pressure for conversion of the facility to other uses.
    3. That the magnitude and duration of the use of the facility will be clearly identified.
  - b. Airport/Heliport/Public Utility Installation/Mobile Home Parks.
    1. That the proposed use is by an owner/applicant with sufficient financial means and resources to protect the public from the risk of harm reasonably anticipated from such use.
    2. That the magnitude and duration of the use of the facility will be clearly identified.
  - c. Asphalt Batch Plant/Concrete Batch Plant/Extraction, Automobile Salvage Yards, Junk Yards, Washing, and Hauling of Sand, Gravel, and Top Soil.
    1. Identification that the specific location is unique and specially suited for the proposed use.
    2. That the owner/applicant has sufficient experience to demonstrate the ability to comply with all applicable operational standards of any governmental regulatory authority.
    3. That the proposed use is by an owner/applicant with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and there will be pressure for conversion of the facility to other uses.

4. That the magnitude and duration of the use of the facility will be clearly identified.
- d. Prison/Correctional Institutions.
1. That the owner/applicant has sufficient experience to demonstrate the ability to demonstrate the ability to comply will all applicable operational standards of any governmental regulatory authority.
  2. That the magnitude and duration of the use of the facility will be clearly identified.
  3. Evidence of general public support.
- e. Daycare Centers.
1. That the owner/applicant has sufficient experience to demonstrate the ability to comply with all applicable operational standards of any governmental regulatory authority.
- f. Lawn & Landscaping Services, Agri-business, including any of the following:
1. greenhouse/nursery
  2. roadside produce stand
  3. farm supply storage and sales
  4. feed storage and sales
  5. grain elevator/storage
  6. livestock sales
  7. farm equipment/implement sales and repair
  8. agricultural research and development
  9. public riding stable
  10. veterinary hospitals or clinics
  11. kennel
  12. hunting facilities

13. fertilizer plants and storage tanks
14. winery
15. deer processing facility/meat market
16. automobile body shops
17. Lawn & landscaping services (may include greenhouse(s), nursery & other associated uses)

That the proposed use is by an owner/applicant with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and there will be pressure for conversion of the facility to other uses.

g. Sanitary Landfills/Mining and Extraction of Minerals.

1. That the proposed use is by an owner/applicant with sufficient financial means and resources to protect the public from the risk of harm reasonably anticipated from the proposed use.
2. That the proposed use is by an owner/applicant with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and there will be pressure for conversion of the facility to other uses.
3. That the magnitude and duration of the use of the facility will be clearly identified.
4. Identification that the specific location is unique and specially suited for the purposed use.
5. That the owner/applicant has sufficient experience to demonstrate the ability to comply with all applicable operational standards of any governmental regulatory authority.
6. Evidence of general public support.

h. Mobile Homes.

1. That the mobile home will be of quality and condition comparable to other structures located in the zoning district.
2. That the mobile home will be of a quality and condition comparable to other structures authorized in the zoning district.

i. Offices/Convenience Stores.



1. That the proposed use is by an owner/applicant with sufficient financial means and resources to protect the public from the risk of harm reasonably anticipated from the proposed use.
2. That the proposed use is by an owner/applicant with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and there will be pressure for conversion of the facility to other uses.
3. That the magnitude and duration of the use of the facility will be clearly identified.
4. Identification that the specific location is unique and specially suited for the proposed use.

j. Off Premises Signs.

1. That the proposed use is by an owner/applicant with sufficient financial means and resources to protect the public from the risk of harm reasonably anticipated from the proposed use.
2. That the proposed use is by an owner/applicant with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and there will be pressure for conversion of the facility to other uses.
3. That the magnitude and duration of the use of the facility will be clearly identified.
4. Identification that the specific location is unique and specially suited for the proposed use.
5. That the sign meets the following size restrictions:
  - a. total signable area shall not exceed .5% of lot area or 500 square feet, whichever is less;
  - b. total signable area shall not exceed the lot width multiplied by 2;
  - c. no sign shall exceed the maximum permissible building or structure height of the zoning district in which the sign is to be located or 30 feet if no height standard is established for the zoning district in which the sign is to be located;
  - d. no sign shall exceed 20' in any dimension;

- e. lighted signs shall have the light sources shaded and directed away from adjoining property.

k. Not for Profit Museum.

- 1. That the proposed museum will serve a specific and identifiable purpose and will be operated by a person with sufficient experience, to minimize the likelihood that the proposed use will be discontinued and that conversion of the facility to other uses will be sought.

l. Ultra-light Aircraft Landing Strip

- 1. That the proposed use is by an owner/applicant with sufficient financial means and resources to protect the public from the risk of harm reasonably anticipated from such use.
- 2. That the magnitude and duration of the use of the facility will be clearly identified.
- 3. Proposed use and site plans have been reviewed by the Illinois Department of Transportation, Division of Aeronautics; Federal Aviation Administration, if applicable; or other appropriate agencies.
- 4. Courtesy Notices of the special use permit public hearings may be given by the mailing of a notice of hearing to the owner of any land within ¼ mile (1320 feet) of the parcel on which action is proposed.
- 5. Proposed use is limited to ultra-light aircraft only, as defined by the Federal Aviation Administration.

INTENTIONALLY BLANK PAGE

## ARTICLE XI

### §11.01 APPEALS

- A. Authority. The Zoning Board of Appeals may modify the Zoning Administrator's orders, requirements, determinations, interpretations, or applications of this Code, but shall do so only where the Zoning Administrator has either misinterpreted or erroneously applied the provisions of this Code or has misunderstood the factual situation giving rise to the appeal.
- B. Initiation. An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by a decision of the Zoning Administrator.
- C. Procedure.
1. Application. An appeal shall be initiated by filing, in duplicate, a written statement of the order, requirements, determination, interpretation, or application appealed from and the factual situation giving rise to such action, in the office of the Zoning Administrator. Upon receipt of a completed application and required fee, one (1) copy thereof will be forwarded to the Zoning Board of Appeals by the Zoning Administrator.
  2. Notification and Hearing. The Zoning Board of Appeals shall give notice and conduct an administrative public hearing on any appeal in the manner provided by section XIII B3b of this Code.
- D. Standards in Reviewing an Appeal. The Zoning Board of Appeals shall prepare findings of fact from the evidence adduced at the administrative public hearing indicating the extent to which the following items are demonstrated:
1. That the Zoning Administrator misinterpreted or erroneously applied the provisions of the Code;
  2. That the Zoning Administrator misunderstood the factual situation giving rise to the appeal.

The Zoning Board of Appeals may modify or reverse the action of the Zoning Administrator if either of the foregoing standards is demonstrated. If neither of the foregoing standards is demonstrated, the appeal shall be denied and the Zoning Administrator's action sustained.

The Zoning Board of Appeals in hearing appeals shall not have the authority or power to change, modify, waive, or relax requirements or regulations of this code.

- E. Vote. The concurring vote of four (4) members of the Zoning Board of Appeals is necessary to reverse the Zoning Administrator.
- F. Decisions. All decisions of the Zoning Board of Appeals on appeals initiated hereunder shall be final and reviewable only in the courts in accordance with applicable Statutes of the State of Illinois.
- G. Stay. An appeal stays all proceedings in furtherance of the action appeal from, unless the Zoning Administrator certifies to the Zoning Board of Appeals that by reasons of facts stated in the certificate a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order issued by the Zoning Board of Appeals or by judicial action.

“Appeals”

An individual wants to open a “bed and breakfast” in an existing structure on property zoned “M-1 Manufacturing District”. The Zoning Code does not list “bed and breakfast” as a permitted or special use in that zoning district. “Motels” and “restaurants” are both listed as permitted uses in that district. The landowner’s realtor calls his friend, a member of the Board of County Commissioners, to ask if it is all right to open the bed and breakfast. The County Commissioner is enthusiastic and responds “the County could really use something like that”. Based on that response, the individual buys the land, starts remodeling and places a “grand opening” ad in the local paper.

ANALYSIS

The power to interpret and construe the Zoning Code is vested in the Zoning Administrator, not the Zoning Board of Appeals, not the Planning Commission, not the Board of County Commissioners, and certainly not any individual Board of Commission member.

In the example the property owner should ask the Zoning Administrator for a written interpretation of the Code, i.e. is a “bed and breakfast” the same as a “motel” and/or “restaurant” and therefore permitted in the manufacturing district or is a “bed and breakfast” a different use.

If the Zoning Administrator interprets the Code to find that the uses are not the same, the Zoning Administrator should notify the property owner that the property cannot be used lawfully as a “bed and breakfast”. If remodeling continued, the Zoning Administrator should contact that State’s Attorney’s office and Menard County should seek judicial assistance in the form of a fine (for the violation of the zoning code) or injunctive relief (to force compliance with the code). The individual desiring to build the “bed and breakfast” has several alternatives:

1. forget the idea
2. find a place in a zoning district that specifically permits a bed and breakfast (if such location exists).
3. Appeal the Zoning Administrator/s interpretation to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Circuit Court
4. Attempt to persuade the County Commissioners to initiate a text amendment to specifically permit bed and breakfasts as a permitted use in the M-1 Manufacturing district, a process that will require a public hearing before the Zoning Board of Appeals and a legislative decision by the Board of County Commissioners before work can continue assuming the text amendment is made. Just because bed and breakfasts are permitted in residential and commercial districts does not mean they are permitted in manufacturing districts. Menard County does not have “cumulative zoning”.
5. Attempt to persuade the County Commissioners to rezone the property from M-1 to a classification that permits bed and breakfast establishments.

If on the other hand, the Zoning Administrator interprets the code to find that the uses were the same, the person desiring to build the “bed and breakfast” can proceed subject to the appeal rights of any person “aggrieved” by the decision of the Zoning Administrator. It is the Zoning Administrator in the first instance who determines who is, or is not “aggrieved”. That determination is also subject to appeal to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Circuit Court.

Seeking a “variation” would be an appropriate alternative because the problem does not deal with the property owner’s inability to comply with some “bulk” regulation of the zoning ordinance.

Seeking a “variance” or “use variance” would not be appropriate because “use variances” are not authorized by Menard County’s Zoning Code.

The initiation of a request for a special use permit would not be an appropriate remedy in this situation because the list of authorized “special uses” in the manufacturing district does not include “bed and breakfast”. It might be possible for the property owner to persuade the County Commissioners to initiate a zoning text amendment to specifically permit “bed and breakfasts” as a “special use” in the manufacturing district. If that approach were pursued it would require a public hearing before the Zoning Board of Appeals on the text amendment, action by the Board of County Commissioners on the text amendment, and if the text amendment is made, the filing of an application for a special use permit, a public hearing on that application before the Zoning Board of Appeals and final action to grant or deny the special use permit by the Board of Commissioners before remodeling work could continue assuming the special use permit is created by the text amendment and granted by the County Commissioners. The two applications cannot be processed simultaneously since there is no authority (or standards) for the special use permit until the text amendment has been made.

INTENTIONALLY BLANK PAGE

## ARTICLE XII

### §12.01 VARIATIONS.

- A. Authority. The Zoning Board of Appeals may permit variations to the bulk, sign and off-street parking regulations of this Code but shall do so only when the granting of such a variation would be in harmony with the Code's general purpose and intent and may vary them only in specific instances where there would be practical difficulties or particular hardships in the way of carrying out the strict letter of the bulk, sign and/or off-street parking regulations of this Code and then only in the manner provided herein. Except with respect to bulk, sign, and off-street parking requirements, the Zoning Board of Appeals in permitting variations, does not have the authority or power to change, modify, waive or relax other requirements or regulations of this Code. The County does not permit "use variances".

#### Variations

The variation procedure is a "safety valve" in the Zoning Ordinance. It should not become a gaping hole through which all land use regulation escapes.

Variations may relax bulk regulations, sign regulations and off street parking regulations only. Variations don't:

- a. authorize uses that are not authorized elsewhere;
- b. permit the expansion of non-conforming uses;
- c. waiver or modify the procedures established by this code, or
- d. waive pre-requisites to lawful use or occupancy.

Menard County does not permit "use variances". If a use is not authorized as a permitted or special use by specific reference or through the Zoning Administrator's interpretation and/or appeal, it is not authorized. The way to obtain authorization is to amend the Code.

- B. Initiation. An application for a variation may be made by the County Commissioners, the Zoning Administrator at the direction of the County Commissioners, or by the owner of, or parties to an enforceable purchase option contract pertaining to the property to which the variation request pertains.

C. Procedure.

1. Application. All requests for variations other than those initiated by or on behalf of the County Commissioners shall only be accepted when filed in duplicate with 15 copies of any material not submitted on 8 ½ x 11 paper or on proper application forms furnished through the office of the Zoning Administrator and after payment of the required fee. Where such applications are required, the information requested is deemed to be a minimum, and applicants may be required to supply additional information prior to public hearings on their request. Such forms shall be filed in duplicate as a prerequisite to the commencement of any action on the part of the County. The Zoning Administrator, when in receipt



of a completed application form, shall forward one (1) copy thereof to the Zoning Board of Appeals for action by said Board.

2. Hearing. No variation shall be granted or denied by the Zoning Board of Appeals except after an administrative public hearing before the Zoning Board of Appeals, conducted in a manner provided in Section XIII B3b of this code.

D. Standards. The Zoning Board of Appeals shall prepare findings of fact from the evidence presented at the administrative public hearing indicating the extent to which the following items are demonstrated:

1. That the granting of the variation will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
2. That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the bulk, sign, or off-street parking regulations of the zoning classification of the property in question.
3. The plight of the owner is due to special circumstances.

If each of the foregoing standards are met, the Zoning Board of Appeals shall grant the variation. If they are not, the Board shall deny the variation.

The Board in its findings of fact, may impose any conditions or restrictions on the granting of the requested variation which it deems necessary to insure that the standards are met.

If such conditions or restrictions are imposed, the Board shall specify with particularity as part of the Findings of Fact the specific restrictions or conditions and the standards to which they pertain.

E. Decisions.

1. All decisions of the Zoning Board of Appeals on variations shall be final and reviewable only in the courts in accordance with the applicable statutes of the State of Illinois.
2. Unless otherwise specified by the Board, any order of decision of the Board authorizing a variation, will expire if the applicant fails to utilize the variation within one year from the date of the decision.

## ARTICLE XIII

### §13.01 ADMINISTRATION AND ENFORCEMENT

- A. Zoning Administrator. The Supervisor of Assessments or other person designated by the County Commissioners shall be the Zoning Administrator and shall administer and enforce this code. The Zoning Administrator may:
1. Interpret, construe and apply the provisions of this Code;
  2. Notify any person responsible for violating any of the provisions of this Code, indicating the nature of the violation and ordering the action necessary to correct the violation;
  3. Order discontinuance of uses of land, buildings or structures; order removal of buildings or structures; order alteration or structural changes of buildings or structures; order discontinuance of work being done; or take any other action individually or in cooperation with the Menard County State's Attorney to insure compliance with or to prevent violation of the provisions of this code;
  4. Maintain records of all nonconformities;
  5. Issue zoning and occupancy permits, and make and maintain records thereof;
  6. Enforce the provisions of all Special Use Permits and variations;
  7. Conduct inspections of building, structures, and use of land to determine compliance with this code;
  8. Maintain permanent and current records pertaining to this Code, including but not limited to: the Zoning Code and map, all amendments to the Code or map, all special uses, all variations, all appeals and applications therefor;
  9. Provide and maintain public information relative to all matters arising out of this Code;
  10. Initiate, direct and review, from time to time, a study of the provisions of this code, and make reports and recommendations to the County Commissioners;
  11. Supervise and direct such assistants, including the Zoning Officer as may be authorized by the County Commissioners.

The Zoning Administrator

“No doubt the ideal system, if it were attainable would be a code at once so flexible and so minute as to supply in advance for every conceivable situation that just and fitting rule. But life is too complex to bring the attainment of this ideal within the compass of human power”.

Benjamin N. Cardozo, quoted in “Phillip K. Howard, The Death of Common Sense”

Zoning laws like any laws, need to be interpreted and applied. The responsibility, in the first instance, for interpreting and applying this zoning rests with the Zoning Administrator.

In Menard County, the Zoning Administrator is appointed by the County Board and is responsible for the implementation of the zoning code to the end that the County Commissioners purpose and intent is carried out.

Where there are questions, ambiguities, or uncertainties, it is the Zoning Administrator that first answers, clarifies and decides. Those disappointed or aggrieved by the determinations of the Zoning Administrator have appeal rights as provided in the code.

The Zoning Administrator is a County employee whose responsibility is to say “no” when that officer’s best judgment says that the request is inconsistent with the code. Such decisions should not be construed as a personal attack on any particular applicant or proponent but should be seen as the only realistic way the County can achieve the dual, often conflicting goals of predictability and flexibility.

B. Zoning Board of Appeals:

1. Creation. The Menard County Zoning Board of Appeals, which has been duly created by the Menard Board of County Commissioners, is the Zoning Board of Appeals referred to in this code.
2. Jurisdiction.
  - a. To conduct administrative public hearings, make findings of fact, and decide duly initiated appeals from any administrative order, requirement, decision or determination made by the Zoning Administrator, Zoning Officer or Assistants in the enforcement of this code in the manner provided in Article XI of this code.
  - b. To conduct administrative public hearings, make findings of fact, and decide applications for variations in the manner provided in Article XII of this code.
  - c. To conduct administrative hearings, make findings of fact and recommend to the County Commissioners approval or disapproval of applications for Special Use Permits in the manner provided in Article X of this code.
  - d. To conduct legislative public hearings and submit reports and recommendations to the County Commissioners on applications or proposals to amend the boundaries of the zoning districts created by this

code; that is, zoning district amendments in the manner provided in Article VII of this Code.

- e. To conduct legislative public hearings and submit reports and recommendations to the County Commissioners on proposed amendments to the regulations imposed by this code; that is, zoning text amendments in the manner provided in Article VII of this code.
- f. To conduct legislative public hearings and recommend approval or disapproval Preliminary Plans for subdivisions and, if directed by the County Commissioners, to report the Final Subdivision Plats in the manner provided in the County's Subdivision Regulations.
- g. To conduct legislative public hearings and recommend approval or disapproval of Preliminary Plans for subdivisions and, if directed by the County Commissioners, to report on Final Subdivisions plats in the manner provided in the County's Subdivision Regulations.
- h. To carry out and perform such additional duties as are assigned by the County Commissioners.

3. Meetings, Hearings, Procedures and Rules.

- a. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times and places as the Zoning Board of Appeals may determine.
- b. Administrative Public Hearing.
  - (1) All administrative public hearings shall be held at regularly scheduled or properly called meetings of the Zoning Board of Appeals.
  - (2) Notices.
    - (a) Legal notice of an administrative public hearing shall be given at least 15 days before the hearing by publication of notice of the date, time and place of such hearing in a newspaper or general circulation published in the road district in which such property is located. If no newspaper is published in such road district, then such notice shall be published in a newspaper of general circulation published in the county and having circulation where such property is located. The notice shall contain: (1) the particular location of the real estate by legal description and street address, and if no street address then by locating such real estate

with reference to any well-known landmark highway, road, thoroughfare or intersection; (2) whether or not the petitioner or applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal, and stating the name and address of the actual and true principal; (3) whether petitioner or applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of 20% of all outstanding stock of such corporation; (4) whether the petitioner or applicant, or his principal if other than applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity; (5) whether the petitioner or applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicated members or member of the unincorporated voluntary association; and (6) a brief description of the matter being considered at the public hearing.

- (b) Courtesy notices may be given by the mailing of a notice of hearing to the owners of any land within 400 feet from the parcel on which action is proposed and/or by posting the property.

(3) Administrative Public Hearing Procedure.

- (a) Parties. The applicant, Menard County, and person filing a written Entry of Appearance is a party to the administrative public hearing.
- (b) Appearance of Others. Any person may appear and testify at an administrative public hearing, either in person or by a duly authorized agent or attorney.
- (c) Oaths or Affirmation. The Chairman may administer oaths or affirmations.
- (d) Compelling the Attendance of Witnesses. The Chairman may compel the attendance of witnesses by mailing to such persons at Notice compelling attendance, not less than five (5) days before the Public Hearing. Failure of a person to appear in response to such Notice shall constitute a violation of this code.

- (4) Record Keeping.
  - (a) Sound Recording. The Zoning Board of Appeals shall make a sound recording of all administrative public hearings and shall retain such tape for not less than one (1) year following the closing of the hearing.
  - (b) Verbatim Transcripts. In the event that any party desires a verbatim transcript of the administrative public hearing, a written request therefore shall be filed with the Chairman of the Zoning Board of Appeals not less than three (3) weeks before such hearing date. Costs of taking such a transcript shall be paid by the requesting party. Any party desiring a transcript of the proceedings shall pay all transcription or copying costs.
- (5) Preparation of Finding of Fact. From the evidence presented to the Board during the administrative public hearing, the board shall prepare findings of fact responsive to the standards established by the code for the particular item under consideration and forward the Findings of Fact and any recommendation to the County Commissioners.

### Findings of Fact

One of the most important responsibilities of the Zoning Board of Appeals in the Administrative Public Hearing Process is to make “findings of fact”. It is the findings of fact that demonstrate whether or not the standards established by the County Commissioners have or have not been met. It is that determination, i.e. whether the standards have or have not been met, that decides whether the requested relief should be recommended by the Zoning Board of Appeals and granted by the County Commissioners.

#### Example

Assume one of the standards specified in the code requires evidence that a proposed special use will provide “safe and efficient access from the proposed use to and from the adjacent public road”.

Witness A testifies that the conditions in the area are “unsafe”.

Witness B testifies that there is an oak tree existing along the east property line of the subject property 10’ from the right-of-way that blocks visibility to the east.

Witness C testifies that neighborhood children will be killed by the reckless teenagers that the proposed use will attract. The witness concludes that it will be the Zoning Board of Appeal members that are responsible for the death of these children if the use is approved.

Witness D testifies to the speed limits along the road, the location of nearby school bus stop areas and the sight distances to the crown of the nearest hill.

Witness E brings in police reports concerning accidents at a similar facility in Sangamon County.

Witness F indicates that the traffic to and from the proposed use will cause the roads to prematurely deteriorate in a significant cost to the taxpayers of Menard County.

Witness G, the proponent, testifies that he plans to cut down the tree and design a parking lot set back more than 30’ from the road right-of-way.

The Zoning Board of Appeals must sort through this testimony and decide what is “factual” and which “facts” are pertinent to the applicable standards. It is suggested that the testimony of Witness A and C are merely “opinions”, the testimony of Witness F, while factual, really isn’t pertinent to the actual standard and the testimony of the remaining witnesses is the sort of specific factual information that should be received by the Zoning Board of Appeals and incorporated into the Board’s findings of fact. It is for the Zoning Board of Appeals to determine how relevant testimony like the testimony of Witness E really is. The weight to be given that testimony largely depends on how “similar” the two situations really are. The decision as to whether the standard is or is not met rests with the Zoning Board of Appeals but should be made on the factual evidence presented.

- (6) Notification of Decision. Copies of findings of fact and decisions or recommendations of the Board shall be served by mailing a copy thereof to all parties other than the County.
- (7) Rules and Procedures. The Zoning Board of Appeals, may adopt its own rules and procedures, not in conflict with this code.

- c. Legislative Public Hearings.
  - (1) All legislative public hearing shall be regularly scheduled or properly called meetings of the Zoning Board of Appeals.
  - (2) Legal Notices.
    - (a) Legal notices of a legislative public hearing shall be given at least 15 days before the hearing by publication in a newspaper of general circulation published in such county. Hearings on text amendments shall be held in the courthouse of the county or such county building with more adequate facilities for such hearing. Hearings on map amendments and subdivision plans shall be held in the road district affected by the terms of such proposed amendment or plan or in the court house, or other county building with more adequate facilities for such hearings, of the county in which the affected road district is located. Provided, that if the owner of any property affected by such proposed map amendment or plan so requests in writing, such hearing shall be held in the road district affected by the terms of such proposed amendment.
    - (b) Courtesy notices may be given by the mailing of a notice of hearing to the owners of any land within 400 feet from the parcel on which action is proposed and/or by posting the property.
  - (3) Legislative Public Hearing Procedure.
    - (a) Appearances. Any person may appear and testify at a legislative public hearing, either in person or by duly authorized agent or attorney.
    - (b) Oaths. The Chairman, may administer oaths or affirmations.
    - (c) Compelling the Appearance of Witnesses. The Chairman may compel the attendance of witnesses by mailing to such persons a Notice compelling attendance, not less than five (5) days before the Public Hearing. Failure of a person to appear in response to such a Notice shall constitute a violation of this code.



- (4) Record Keeping. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicated such fact.
- (5) Preparation of Recommendations. Based on the evidence presented, the Board shall prepare a recommendation to the County Commissioners. The recommendation shall be consistent with the purpose and intent of the ordinance and responsive to any suggested guidelines established by this code for the matter under consideration.
- (6) Transmittal of Recommendations to County Commissioners. A copy of the minutes and any reports or recommendations prepared by the Board after a legislative public hearing shall be filed with the County Commissioners prior to final action by the County Commissioners on particular item and shall become part of the public records of the County, provided however, the failure to file such minutes or report shall not invalidate any action of or by the County.

d. Planning Commission

- (1) Creation. The Menard County Planning Commission, which has been duly created by the Menard County Commissioners, is the Planning Commission referred to in this Code.
- (2) Jurisdiction. To conduct legislative public hearings and submit reports and recommendations to the County Commissioners on zoning text and district amendments or any other matter referred to it in the manner required by Section XIII B3c of this Code.

ARTICLE XIV

§14.01 SCHEDULE OF FEES. An application for an appeal, variation, district amendment, text amendment, special use, zoning permit or occupancy permit other than those initiated by or at the direction of the County Commissioners shall be accompanied by the appropriated following fee:

Appeals	\$250.00
Variations	\$250.00
Zoning District Amendments	\$250.00
Zoning Text Amendments	\$250.00
Special Use Permits	\$250.00

Zoning Permit:

a. Buildings/Structures, as follows:

Less than Fifty (50) square ft.	\$40
Fifty (50) square feet or more	\$40 plus \$0.10 per additional square foot
New Dwelling Construction	\$200 plus \$0.05 per square foot, per floor area and including attached private garage square footage
Swimming Pool, above-ground or in-ground	\$50
Signs, when fee required	\$40 plus \$0.10 per additional square foot of signable area greater than sixty-four (64) square feet
Fence or Retaining Wall	\$40 plus \$0.10 per linear feet of fence/wall
Private WECS	\$5 per foot of WECS tower height, per tower
Telecommunications Tower	\$10 per foot of telecommunications tower height, per tower

b. Buildings/Structures for agricultural purposes \$0

Occupancy Permit NONE

The applicant shall also be required to pay all publication costs, the costs of the preparation of any required transcript or record and certified mail costs incurred by the County in providing courtesy notices under this code.

INTENTIONALLY BLANK PAGE

## ARTICLE XV

### §15.01 COMPLAINTS AND PENALTIES FOR VIOLATIONS

- A. Complaints. In case any building or structure is constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Code, or any other violation of this code, any person may file a written complaint with the Zoning Administrator stating fully the causes and basis thereof. After investigation and if satisfied that a violation in fact exists, the Zoning Administrator, with the assistance of the Menard County States Attorney, may institute any appropriate action of proceeding to:
1. Prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance or use;
  2. Prevent the occupancy of the building, structure or land;
  3. Prevent any illegal act, conduct, business, or use in or about the premises; or
  4. Restrain, correct or abate the violation;
  5. Allege a violation of this Code and seek the imposition of the penalties provided herein.
- B. Penalties. Any person found guilty of violating, disobeying, omitting, neglecting, or resisting or opposing the investigation or enforcement of any of the provisions of this Code, upon conviction thereof shall be guilty of a petty offense and shall be punished by a fine of not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars. A separate and distinct offense shall be regarded as committed each day the violation remains uncorrected.

INTENTIONALLY BLANK PAGE