

Marshall County
Zoning Ordinance

December 11th, 2008
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**CHAPTER 1
RULES AND DEFINITIONS**

SECTION:

- 1.1 Rules
- 1.2 Definition

1.1 RULES

In the construction of this Ordinance, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise.

- A. Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural, the singular.
- B. The word "lot" shall include the words "plot", "piece" and "parcel"; the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrase "arranged for", "intended for", "designed for", "maintained for" and "occupied for".
- C. The word "County" means Marshall County, Illinois.
- D. The words "Zoning Board" means the Marshall County Zoning Board of Appeals.
- E. Unless otherwise specified, all distances shall be measured horizontally.
- F. The following defined words and terms, wherever they occur in this Ordinance shall be interpreted as herein defined.

1.2 DEFINITIONS

Abandonment. An action to give up one's rights or interest in property.

Abutting. To have a common property line or district line.

Accessory Building. A building which is subordinate to a principal building which is detached and is located on the same lot as the principal building.

Accessory Use. A use incidental to, and on the same lot as a principal use.

Acreage. Any tract or parcel of land having an area of one acre or more which has not been subdivided or platted.

Adult Bookstore. See Adult Use Establishment

Adult Entertainment Cabaret. See Adult Use Establishment

Adult Mini-motion Picture Theater. See Adult Use Establishment

Adult Motion Picture Theater. See Adult Use Establishment

Adult Use Establishment. Establishments commonly known as, but not limited to the following:

1.) Adult bookstores - Any establishment having as a substantial portion of its stock in trade books, magazines, films for sale or viewing on the premises by the use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to sexual activities or related anatomical areas or an establishment with a large segment or section devoted to the sale or display of such sexually explicit material.

2.) Adult mini-motion picture theaters - An enclosed building with a capacity for less than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities (i.e. x, xx, xxx rated material) and related anatomical areas for observation by patrons therein.

3.) Adult motion picture theaters - An enclosed building with a capacity of fifty (50) or more persons used for presenting motion pictures having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or related to sexual activities (i.e. x, xx, xxx rated movies) or related anatomical areas for observation by patrons therein.

4.) Adult entertainment cabarets - A public or private establishment which features topless dancers, strippers, male or female impersonators, or similar entertainment.

5.) Massage establishments, except therapeutic massage - Any establishment having a fixed place of business where any person, firm, association or corporation engages in, or carries on, or permits to be engaged in or carried on any activities known as massage (any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft

parts of the body with the hands or other parts of the human body or with the aid of any mechanical or electrical apparatus or appliance, with or without supplementary aids or rubbing alcohol, liniments, antiseptics, oils, powder, cream, lotions, ointments or other similar preparations commonly used in this practice), except for health and recreational facilities and clubs which contain ten thousand (10,000) square feet of enclosed and finished space equipped for exercise rooms, gymnasiums, tennis courts, racquet-ball courts, swimming pools or similar used directly related to and used in exercising the human body and which establishment does not derive more than five (5) percent of its yearly income from massage services.

6.) Body shops or model studios - Any public or private establishment which describes itself as a body shop or model studio, or where for any form of consideration or gratuity, figure models who display sexually oriented anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity, nude and seminude dancing, readings, counseling sessions, body painting and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities and related anatomical areas are provided for observation by or communication to persons paying such consideration or gratuity. Excluded from this definition would be recognized art courses which as a portion of their instruction include drawing, painting, sculpting or photographing a model.

Agricultural Labor Housing. One or more buildings, trailers, together with the land appertaining thereto, established, operated or used as living quarters for six (6) or more seasonal or temporary workers engaged exclusively in agricultural activities, including, for the purpose of this definition, related food processing.

Agriculture. Land, or land and structures, the principal use of which includes one of the following: The growing of farm crops, truck garden crops, animal and poultry husbandry, apiculture, dairying, floriculture, horticulture, nurseries, pasturage, viticulture, greenhouses (wholesale), ethyl alcohol distillation of farm products, and accessory uses customarily incidental to agricultural activities.

Airport or Aircraft Landing Field. Any landing area, runway or other facility (including heliports), designed, used or intended to be used either publicly or privately by an person or persons for the landing or taking off of aircraft, including all necessary taxiways, aircraft storage and tie down areas, hangars and other necessary buildings and open spaces.

Alley. A public way, not more than thirty feet (30') wide, which affords only a secondary means of access to abutting property.

Amendment, Map. An amendment to the map of the Zoning Ordinance which affects or changes the zoning of an individual parcel or parcels of land. This term is commonly known as re-zoning.

Amendment, Text. An amendment to the text of the Zoning Ordinance.

Animal Hospital. Any building or portion thereof designed or used for the care, observation or treatment of domestic animals.

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

Auditorium. A room, hall or building made a part of a church, theater, educational institution, recreation building or other building assigned to the gathering of people as an audience to hear lectures, plays and other presentations.

Automobile Laundry. A building or portion thereof containing facilities for washing vehicles.

Automobile Service Station. A place where gasoline, diesel or a derivative thereof, stored in tanks, lubricating oil or grease, for operation of automobiles or trucks, is offered for sale directly to the public on the premises, including minor accessories for the service of automobiles and trucks.

Automobile and Trailer Sales Area. An open area, other than a street used for the display or sale of new or used automobiles or trailers.

Auto Wrecking and Junk Yard. Any place where two (2) or more motor vehicles not in running condition for a period of three (3) months and not currently licensed or the parts thereof, or any other machinery or parts thereof, are stored in the open and are not being restored to operation on any land, building or structures used for the wrecking or storing of such motor vehicles or the parts thereof, or any other machinery or parts thereof, or for commercial salvaging or scavenging.

Bed and Breakfast. A dwelling unit where no more than four (4) short-term lodging rooms are provided for compensation (with or without meals).

Billboard. A sign that identifies or communicates a commercial or noncommercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Block. A tract of land bounded by streets, or, in lieu of streets, by public parks, cemeteries, railroad rights-of-way, shorelines, waterways or corporate boundary lines of municipalities.

Boarding House. A building other than a hotel or restaurant where rooms and meals are provided for compensation to not more than twelve (12), who are not members of the keeper's family.

Boat Landing. Any ramp, dock, mechanism or device by means of which a boat, whether powered or not, can be transferred from a trailer to the water.

Body Shop or Model Studio. See Adult Use Establishment

Borrow Pit. Any place or premises where dirt, soil, gravel or other material is removed by excavation below the grade of surrounding land for any purpose other than that necessary for grading or construction or operation of the premises (*i.e.* a basement).

Building. Any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

Building Area. The space remaining of a building lot after the minimum yard requirements of this Ordinance have been complied with.

Building, Completely Enclosed. A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls pierced only by windows and normal entrance or exit doors.

Building, Detached. A building surrounded by open space on the same zoning lot.

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

Building, Non-Conforming. Any building which does not conform to the regulations of this Ordinance prescribing the required yards, coverage, height and setbacks, minimum required spacing between buildings on a single lot, and minimum required usable open space for the district in which such building is located.

Building, Principal. A non-accessory building in which the principal use of the zoning lot, on which it is located, is conducted.

Bulk. The term used to describe the size and mutual relationships of buildings and other structures, as to size; height, coverage; shape; location of exterior walls in relation to lot lines, to the center lines of the streets, to other walls of the same buildings, and to other buildings or structures; and to all open spaces relating to the buildings or structures.

Bus Lot. Any lot or land area used for the storage or layover of passenger buses or motor coaches.

Business. Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

Camper. A recreational motor vehicle converted or equipped and primarily used for living quarters or for human habitation, rather than for the transportation of freight, goods, wares and merchandise and not used as a commercial vehicle.

Campground and Camp. A tract of land used for seasonal, recreational, or other similar purposes on which may be located temporary or permanent buildings, structures, tents or recreational vehicles. Residents who host others at no charge for camping are not considered to be operating a campground provided the recreational vehicles are licensed, the use is for less than 30 days, and licensed water and sanitation facilities exist.

Cellar. A story having more than one-half (1/2) of its height below the curb level or below the highest level of the adjoining ground. A cellar shall not be counted as a story for the purposes of height measurement.

Clinic or Medical Health Center. An establishment where one (1) or more licensed doctors of medicine engage in the practice of medicine, operating on a group or individual basis, with pooled facilities such as a coordinated laboratory, x-ray and allied departments, for the diagnosis and treatment of humans, which need not but may include a drug prescription counter (not a drug store) for the dispensing of drugs and pharmaceutical products to the patients of the said organization. In addition to the above, the medical center or medical clinic may include the space for the practice

of dentistry.

Club or Lodge, Private. A nonprofit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Commercial Boat Landing. Any boat landing which is open to the public, or to members of any club or organization, upon the payment of the fee or charge to the owner, lessee or occupant of the land on which the boat landing is located.

Community Center. A building where the people of a community meet, especially for recreation or social purposes.

Community Sewer and/or Water System. Any system, other than an individual septic tank or individual well, operated by a municipality or a public utility for the disposal of wastes and the furnishing of water, or either, to residential, industrial and/or commercial users, or any privately operated systems for the distribution of water from a single well, or a system of wells, and/or the collection and disposal of wastes in a central septic tank, or system of central septic tanks; provided, that such privately operated water and/or sewer system shall comply with all applicable Statutes of the State of Illinois, and all applicable regulations and ordinances of all departments, commissions, agencies and political subdivisions of the State of Illinois.

Conforming Building or Structure. Any building or structure which complies with all the regulations of this Ordinance or of any amendment thereof governing the district in which said building or structure is located.

Cropland. Land that the County determines meets any of the following conditions:

1. New lots broken out if both of the following conditions are met:
 - a.) Land is planted to a crop to be carried through harvest
 - b.) Tillage and cultural practices in planting and harvesting crop consistent with normal practices in the area.
2. Currently being tilled to produce a crop for harvest
3. Not currently tilled, but has been tilled in a prior year and is suitable to be tilled for crop production
4. Timber shall not be considered crops as used in this ordinance

Day Care Center. An institution or place in which are received three (3) or more children, not of common parentage, apart from their parents or guardian, for part or all of a day, but not later than nine o'clock (9:00) P.M. The term "day care center" includes but is not limited to the following: nursery schools, child care centers, day nurseries, kindergartens and play groups, but does not include bona fide kindergartens or nursery schools operated by an educational institution.

District. The area into which Marshall County has been divided for which uniform regulations governing the use, size and intensity of land, buildings and open space around buildings is established.

Driveway. A private road connecting a house, garage or other building with the street or alley.

Duplex. See "Dwelling, Two-Family".

Dwelling. A structure or portion of structure of any manufacture placed on a permanent foundation used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses. A patio or deck with a permanent roof shall be defined as part of the dwelling.

Dwelling, Attached. A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, Detached. A dwelling which is entirely surrounded by open space and is not connected to any other dwelling unit by roof, walls or porches on the same lot.

Dwelling Group. Two (2) or more one-family, two-family or multiple-family dwellings or boarding or lodging houses, located on one zoning lot but not including motels.

Dwelling, Multiple-Family. A building or portion thereof, designed or altered for occupancy by three (3) or more families living independently of each other.

Dwelling, One-Family. A dwelling unit designed exclusively for use and occupancy by one family.

Dwelling, Row (Party Wall). A row of two (2) to eight (8) attached one-family party-wall dwelling, not more than two and one-half (2.5) stories in height nor more than two (2) rooms in depth, measured from the building line.

Dwelling, Semi-Detached. A dwelling joined to one other dwelling by a party wall,

or vertical cavity wall, and aboveground physically unifying horizontal structural elements.

Dwelling, Two-Family. A building designed or altered to provide dwelling units for occupancy by two (2) families.

Dwelling Unit. One or more rooms in a residential structure which are arranged, designed, used or intended for use by one family, for living and sleeping purposes and which includes complete kitchen facilities permanently installed.

Educational Institution. Public, private, charitable or nonprofit, academy, junior college, college, university, trade, business or vocational schools including instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers and employees.

Efficiency Unit. A dwelling unit consisting of one principal room for living, sleeping and eating plus facilities for cooking and a complete bath and toilet facilities.

Establishment, Business. A building used in whole or in part as a place of business, the ownership, or management of which is separate and distinct from the ownership or management of any other place of business located on the same or other lot.

Family. One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Farm. Means a tract of land used for the growing and storage of the usual agricultural products such as grain, vegetables, and fruits, as well as for the raising thereon of the usual farm animals such as horses, cattle, poultry, sheep and swine. The term includes the utilization of such land for one or more of the above uses including dairy farms with the necessary operations for treating or storing the produce.

Flood plain. The areas adjoining a watercourse which have been or hereafter may be covered by the base flood elevation.

Flood way. The channel of the watercourse and those portions of the adjoining flood plain which is reasonably required to carry and discharge the base flood elevation.

Footprint. The maximum fixed or operating area of a structure projected to a horizontal plane, including the roof line and all projections.

Freeway. A major highway having no intersections at grade and having fully controlled access, hence "free" from conflicts and interruptions.

Frontage. All the property fronting on one side of a street between the nearest intersecting streets or between a street and a right-of-way, waterways or other similar barriers.

Garage. A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor-driven vehicles.

Grade, Street. The elevation of the established street in front of the building measured at the center of such front.

Gross Density. The ratio between total number of dwelling units on a lot and total area in acres.

Gross Floor Area (for the purposes of determining requirements for off-street parking and off-street loading). The floor area shall mean the sum of the gross horizontal area of the several floors of the buildings or portion thereof, devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

However, floor area for the purpose of measurement of off-street parking spaces shall not include floor area devoted primarily to storage purposes. The following areas shall not be included for the purpose of measurement of off-street parking spaces:

1. Floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space.
2. Basement floor area other than area devoted to retaining or service activities or the production or processing of goods, or to business or professional offices.

Ground Floor Area. The lot area covered by a principal building measured at grade from the exterior walls but excluding open porches or terraces, garages or carports.

Home Occupation. An accessory use of a dwelling for a business or professional purpose customarily permitted in a dwelling that is clearly incidental to the primary use of the residence as a dwelling.

Hospital or Sanitarium. An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty four

(24) hours in any week of three (3) or more non-related individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions.

Hotel, Apartment. A hotel in which at least ninety percent (90%) of the hotel accommodations are for occupancy by permanent guests.

Hotel, Motel, Inn or Auto Court. An establishment containing lodging accommodations designed for use by transients or travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial desk service, restaurants, cocktail lounges, meeting rooms, and ancillary retail uses, provided access to such uses are from the exterior of the principal use.

House Car. A recreational motor vehicle converted or equipped and primarily used for living quarters or for human habitation, rather than as a passenger car and not used as a commercial vehicle.

House Trailer. A recreational trailer or semi-trailer equipped and used for living quarters or for temporary human habitation rather than for the transportation of freight, goods, wares and merchandise. A house trailer placed on a permanent foundation shall be a dwelling.

Householder. The occupant of a dwelling unit who is either the owner or lessee thereof.

Junk Yard. An open area where waste, scrap metal, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel. Any lot or premises or portion thereof on which more than four (4) dogs are kept over four (4) months of age, or where more than four (4) cats or other domestic animals are kept, and where any dog or other domestic animals are boarded for compensation or kept for sale.

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

Laundromat. A business that provides self-service type washing, drying, dry-cleaning or ironing facilities.

Loading and Unloading Space or Berth, Off-Street. An open, hard surfaced area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than twelve feet (12') in width, thirty feet (30') in length, and fourteen feet (14') in height, exclusive of access aisles and maneuvering space.

Lodging or Rooming House. A building with not more than five (5) guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open on a daily, overnight or per meal basis to transient guests.

Lot. A parcel of land legally described as a distinct portion or piece of land of record.

Lot Area. The area of a horizontal plain bounded by vertical plains containing the front, side and rear lot lines (see "Zoning Lot").

Lot, Corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty degrees (130) or less.

Lot Coverage. The part or percent of the lot occupied by buildings or structures including accessory buildings or structures.

Lot Depth. The mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.

Lot Frontage. The front of a lot shall be that boundary of a lot along a public street; for a corner lot, the owner may elect either street line as the front lot line.

Lot, Interior. A lot other than a corner or reversed corner lot.

Lot Line. A property boundary line of any lot held in single or separate ownership except that where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley line.

Lot Line, Front. The front property line of a zoning lot.

Lot Line, Interior. A lot line which does not abut a street right-of-way line.

Lot Line, Rear. The lot line or lot lines most nearly parallel to and most remote from the front lot lines.

Lot Line, Side. Lot lines other than front or rear lot lines.

Lot of Record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Deeds of Marshall County prior to the adoption of these provisions, or lot which is part of an unrecorded plat or subdivision which is dated prior to the adoption of these provisions.

Lot, Reversed Corner. A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

Lot, Through (Double Frontage Lot). A lot having frontage on two (2) parallel or approximately parallel streets. Through or double frontage lots are not permitted, except where lots back upon a major street, upon a body of water in separate or undivided ownership, or in manufacturing and business subdivisions.

Lot Width. The horizontal distance between the side lot lines of a lot, measured within the lot boundaries at the required setback line.

Manufacture. The production, making or processing of products or commodities for general consumption of the public or for sale to specialized institutions or organizations. Also included is the sub-assembly, fabrications or processing of parts or components for use in other products or commodities.

Marquee or Canopy. A roof-like structure of a permanent nature which projects from the wall of a building and may overhang the public way and is designed and intended to protect pedestrians from adverse weather conditions.

Massage Establishment. See Adult Use Establishment

Massage Therapist. Any person who practices or administers therapeutic massage, and who has completed at least five hundred fifty (550) hours in a regular course of study of underlying principles of anatomy and physiology as generally recognized by an approved school of massage.

Mobile Home. A structure designed for permanent human habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be used. A mobile home placed on a permanent foundation shall be a dwelling.

A mobile home does not include a camper, house trailer, recreational vehicle, private living coach, house car or any other sports or camping trailers not identified.

Mobile Home Subdivision. Any area or subdivision developed primarily for the installation of mobile homes but from which single-family houses are not restricted. All installations and structures in any case must conform to the provisions of the Marshall County Subdivision Ordinance. Not included are sales lots on which unoccupied mobile homes or trailers, whether new or used, are parked for purposes of inspection and sale.

Mobile Home Park. Any area or premises, with a minimum of 5 acres, on which are parked five (5) or more mobile homes or any premises on which space for parking of mobile homes is rented, or held out for rent, or on which free occupancy or camping is permitted to the owners or users of mobile homes for the purpose of securing their trade. The term "mobile home park" does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of inspection and sale.

Motel. See "Hotel".

Motor Freight Terminal. A building in which freight, brought to said building by motor trucks, is assembled and sorted for routing in either interstate or intrastate shipment by motor truck.

Nature and Forest Preserves. A property whose intention is to conserve a natural resource. It may be publically or privately owned. The rules for public access, hunting and fishing will be clearly identified.

Net Site Area. The area of a zoning lot, parcel or tract, excluding boundary rights-of-ways.

Nonconforming Building or Structure. Any building or structure lawfully established which does not comply with all the regulations of this Ordinance or of any amendment hereto governing bulk of the district in which such building or structure is located.

Nonconforming Use. The use of any building, structure or land that does not conform with the regulations of this Ordinance or any amendment hereto governing use in the district in which it is located, but conformed with all of the codes, ordinances and other legal requirements applicable at the time such building or structure was erected, enlarged or altered, and the use thereof or the use of land was established.

Nursing Home or Rest Home. Nursing Home or Rest Home means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept or provided with food and shelter and care

for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

Occupancy Certificate. A certificate issued by the Zoning Administrator stating the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Ordinance.

Open Sales Lot. A lot or parcel of land used or occupied for the purpose of buying, selling or trading of all goods and commodities and including the storage of same prior to sale or exchange.

Ordinance. Reference to "Ordinance" shall be construed as the Marshall County Zoning Ordinance.

Park. A lot, or portion thereof, or aggregation of contiguous lots, used by the public for outdoor recreational activities, including any accessory office, picnic tables, maintenance building, restroom facility, storage facility, or similar accessory use or structure.

Parking Area. An open, hard-surfaced area, other than a street or public way, designed, arranged and made available for the storage of private passenger automobiles only, of occupants of the building or buildings for which the parking area is developed and is accessory.

Parking Area, Public. An open, hard-surfaced area, other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles and available to the public, whether for compensation, free or as an accommodation to clients or customers.

Parking Space, Automobile. Space within a public or private parking area of not less than one hundred eighty (180) square feet, nine feet by twenty feet (9' x 20'), exclusive of access drives or aisles, ramps, columns or office and work areas, for the storage of one passenger automobile or commercial vehicle.

Particulate Matter. Material which is suspended in or discharged into the atmosphere in finely divided form as a liquid or solid at atmospheric pressure and temperature.

Performance Standard. A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

Permanent Foundation. A permanent foundation is a continuous perimeter foundation of material such as mortared concrete block, mortared brick, or concrete that extends into the ground below the established frost depth and to which the home is secured. The permanent foundation shall extend to the frame of the structure and the frame shall be secured to the foundation with bolts.

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

Principal Building. See Building, Principal.

Principal Use. The main use of land or structures as distinguished from secondary or accessory use.

Private Sewer. A sewer privately owned and not directly controlled by public authority.

Public Open Space. Any publicly-owned open area including but not limited to the following: parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public Utility. Any person, firm or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water or sewer systems to the public under public regulation.

Railroad Right-of-Way. A strip of land and auxiliary facilities for track operation, but not including depot loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, water towers, etc.

Recreation Area or Facility. A property, which may include buildings, auditorium(s), stadium(s), outdoor amphitheater, open or enclosed structure(s), outdoor field(s), playground(s), race track(s) or courses for sports or motorsports, used for recreation or competition for individuals (other than the property owner(s), team or motorsports.

Recreational Vehicle. Any boat, boat trailer, trailer, any camping trailer, travel trailer, pickup coach, motor home or other unit built or mounted on a vehicle or chassis, without permanent foundation, which may legally be driven or towed by a motor vehicle on a highway or street.

Recycling Facility. A facility that is not a junkyard and in which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal cans; and other products are recycled, reprocessed, and treated to return such

products to a condition in which they may again be used for production. Those materials considered recyclable are those solid wastes identified as recyclable materials pursuant to the Marshall County Solid Waste Management Plan.

Restaurant. Any land, building or part thereof, other than a boarding house where meals are provided for compensation, including a cafe, cafeteria, coffee shop, lunch room, drive-in stand, tearoom and dining room and including the serving of alcoholic beverages when served with and incidental to the serving of meals.

Roadside Stand. A farm building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of the farm products raised on said farm.

Roadway. That portion of a street which is used or intended to be used for the travel of motor vehicles.

Satellite Antenna. A dish-shaped device designed to receive television signals transmitted from orbiting satellites.

Screening. Structures or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation. When a use is required to be separated from an adjoining lot or district by screening, such screening shall be of sufficient size and design to completely conceal such use when viewed from the adjoining lot or district.

Separation Distance. The distance measured from the activity to the nearest corner of an occupied dwelling.

Setback. The required minimum horizontal distance between the building line and the related front, side or rear property line.

Sign, Identification. A structure, building, wall or other outdoor surface used to display and identify the name of the individual, business, profession, organization or institution occupying the premises upon which it is located.

Single Ownership. A lot in single ownership is one where the owner does not own adjoining vacant property.

Solar Energy System. A structure which may be attached to a building or stand-alone, which generates energy which may or may not be connected to the electrical grid.

Stacking Requirements. The number of vehicles that must be accommodated in a reservoir space while waiting to enter or exit a specified business or service establishment.

Stop Work Notice. A notice issued by the Zoning Administrator that the use to which the property is devoted, or the building or other structure under construction on the property, is in violation of the provision of the Ordinance, another related ordinance of Marshall County, or a state statute. The notice may be served upon the owner of the property, any contractor thereon, and if practicable, posted upon the property.

Story. The space between the surfaces of two successive floors in a building, or the space between the surface of a floor and the ceiling above it, including a basement if its ceiling is over six feet above the average level of the finished ground surface adjoining the exterior walls of the building.

Story, Half. The space under a sloping roof where the intersecting line of the roof framing and interior wall surface is at least three (3) feet, but no more than four and one-half (4 1/2) feet above the top of the floor that is just below the roof. A half-story containing independent apartment or living quarters will be counted as a full story.

Street. A public way other than an alley, which affords a primary means of access to abutting property.

Street Line. A line separating a lot, piece or parcel of land from a street.

Structural Alteration. 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.

Structure. Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, excluding a fence. A sign, billboard or other advertising medium, detached or projecting, shall be construed to be a structure.

Solar Energy System. A structure which may be attached to a building or stand-alone, which generates energy which may or may not be connected to the electrical grid.

Swimming Pool, Private. A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained by an individual for the sole use of his household and guests, without charge for admission, and not for the purpose of profit

or in connection with any business operated for profit, located on a lot as an accessory use to a residence.

Swimming Pool, Public. A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained and operated by a municipality or other units of government for the general public, whether or not an admission fee is charged.

Target Range, Outdoor. A facility designed or used for shooting targets with rifles, pistols, bows, or shotguns, and which is not completely enclosed within a building or structure.

Tavern or Lounge. A building where liquors are sold to be consumed on the premises, but not including restaurants where the principal business is serving food.

Tower. A structure whose primary purpose is to support a transmitting and/or receiving antenna or a Wind Energy Conversion System(s) (WECS). An antenna is a system of electrical conductors that transmit or receive radio frequency waves.

Tower Addition or Alteration. Any addition or alteration to a Tower that would be subject to a special permit authorization when it was new, and that requires a crane or any addition changing the height more than 10% over the original approved height.

Trailer. A trailer is a vehicle, which will be appropriately licensed, or a structure which is defined as a Mobile Home.

Trailer Sales Area. An open area, other than a street, used for the display or sale of new or used trailers, and where no repair work is done, except for minor incidental repair of trailers to be displayed and sold on the premises.

Trailer, Sports or Camping. A trailer designed for camping or other recreational purposes.

Truck Parking Area or Yard. Any land used or intended to be used for the storage or parking of trucks, trailers, tractors and including commercial vehicles, while not loading or unloading, which exceeds one and one-half (1 1/2) tons in capacity.

Use. The purpose or activity for which the land, buildings and structures thereon, is devoted, designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this Ordinance.

Use, Lawful. The use of any building, structure or land that conforms with all of the regulations of this Ordinance or any amendment hereto, and which conforms with all of the codes, ordinances and other legal requirements, as existing at the time of the enactment of the Ordinance or any amendment hereto, for the structure or land that is being considered.

Use, Permitted. Any use which is or may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and when applicable, performance standards of this Ordinance for the district in which such use is located.

Use, Principal. The dominant use of land or buildings as distinguished from a subordinate or accessory use.

Use, Special Permitted. A use that has operational, physical and other characteristics that may be different from those of the predominant permitted uses in a district, but which is a use that compliments or is otherwise compatible with the overall developments within a district. Compliance with special standards not necessarily applicable to other permitted or special permitted uses in the district shall be required for a special permitted use, as herein is regulated in this Ordinance.

Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such variances will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary and undue hardship. A relaxation of the terms of this Ordinance that will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of the existing terms would result in unnecessary and undue hardship.

Vibration. The periodic displacement, measured in inches, of earth.

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

Yard, Front. A yard extending along the full length of the front lot line between side lot lines.

Yard, Rear. A yard extending along the full length of the rear lot line between side lot lines.

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

Zoning Administrator. Wherever the term "Zoning Administrator" is used, it shall mean the Zoning Administrator appointed by the County Board and such deputies or assistants as have been or shall be duly appointed.

Zoning Board. The Marshall County Zoning Board of Appeals.

Zoning Committee: The Marshall County Zoning Committee

Zoning Districts. The districts into which the unincorporated area of Marshall County, Illinois have been divided for zoning purposes.

Zoning Lot. A single tract of land located within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore a zoning lot may or may not coincide with a lot of record.

Zoning Map. The Zoning Layer of Marshall County's Geographic Information System map (GIS) or other similar computerized maps of each of the townships of Marshall County which when printed display the zoning districts and classifications for each parcel of property in the County that is subject to this ordinance. This definition includes any enlargement of a portion of the zoning map necessary to identify the parcel to determine its zoning.

**CHAPTER 2
ZONING ADMINISTRATION**

SECTION:

- 2.1 Administrative Provisions
- 2.2 Administration

2.1 ADMINISTRATIVE PROVISIONS

2.1-1 TITLE: This Ordinance, including the zoning districts maps made a part hereof, shall be known and may be cited and referred to as the "Marshall County Zoning Ordinance".

2.1-2 INTENT AND PURPOSE: This Zoning Ordinance adopted pursuant to the provisions of "An Act in Relation to County Zoning", passed by the General Assembly of the State of Illinois and enacted into law on June 28, 1935, as amended, is intended to serve the following intent and purposes:

Create districts in Marshall County to regulate the location and use of buildings, structures and land for trade, industry, residence and other uses within these districts; and establish setback lines in order to promote the orderly development of the unincorporated portions of Marshall County.

Conserve, protect and encourage the development and improvement of the prime agriculture lands in Marshall County for the production of food and other agricultural products. Agricultural land is the County's most valuable natural and economic resource and its long-term viability is desirable for future operations. As scattered development extends into productive farm areas, viable farming may be inhibited by rising farm taxes and by reluctance to make long-term investments in farm improvements. It is the purpose of this Ordinance to provide a means by which agricultural land may be widely protected as a valuable and irreplaceable segment of the County. Agricultural and other districts have been established for the following purposes:

To protect, strengthen and maintain the economic base that agricultural and commercial pursuits provide the County.

To avoid incompatible uses and conflicts resulting from a mixture of land uses.

To prevent scattered, haphazard or premature development by guiding growth in an orderly fashion.

To prevent the unfair shifting of construction and service costs to agricultural landowners.

To maintain and enhance rural community values.

To lessen or avoid the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters.

To preserve and protect areas containing significant natural qualities or cultural and historical values.

To provide for the efficient administration and fair enforcement of all the regulations set forth in this Ordinance.

To clearly and concisely explain the procedures for obtaining variances, special use permits, amendments, and the like.

2.1-3 INTERPRETATION OF PROVISIONS:

- A. Minimum Requirements: In their interpretation and application, the zoning provisions of the Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- B. Overlapping or Contradictory Regulations: Where the conditions imposed by any provision of the Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive shall govern.
- C. Private Agreements: This Ordinance is not intended to abrogate any easement, covenant or any other private agreement; provided, such where the regulations of this Ordinance are more restrictive than such easements, covenants or other private agreements, the requirements of this Ordinance shall govern.
- D. Unlawful Uses: No building, structure or use which was not lawfully existing at the time of the adoption of this Ordinance shall become or be made lawful solely by reason of the adoption of these zoning provisions. To the extent that, and in any matter that, said unlawful building, structure or use is in conflict with the requirements of this Ordinance, said building, structure or use remains unlawful hereunder.
- E. This ordinance is not intended to be a building code and should not be interpreted as such.
- F. Cumulative Effect: The provisions of this Ordinance are cumulative and are

additional limitations upon all other laws and ordinances, heretofore passed or which may be passed hereafter, governing any subject matter in this Ordinance.

- G. All provisions contained in this Ordinance referring to the Marshall County Subdivision Ordinance refer to said Ordinance adopted by the County Board on January 19, 1969, and as amended, and the provisions therein are incorporated by reference where specifically mentioned in this Ordinance.

2.1-4 SEVERABILITY OF PROVISIONS:

It is hereby declared to be the intention of the County Board that the several zoning provisions of this Ordinance are severable, in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any zoning provisions of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

2.1-5 SCOPE AND EXEMPTIONS:

- A. **Scope of Regulations:** The zoning provisions of this Ordinance shall apply only to buildings, structures and land in the unincorporated area of Marshall County and in those municipalities that do not have a zoning ordinance.

All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of, or additions to, existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses or land shall be located.

- B. **Exemptions:** The following uses, buildings and structures shall be exempt from regulation pursuant to this Ordinance:

Agricultural buildings and structures or land used for agriculture, as defined herein, except that agricultural buildings and structures shall conform to the building and setback lines applicable in the district in which the building or structure is located. In the event that any building, structure or land ceases to be used solely for agriculture, then such building, structure or land shall be subject to the applicable regulations of this Ordinance.

Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves or any other similar equipment for the distribution or transmission of telephone or other communications, electricity, gas, water and sewerage, or for the underground storage of natural gas, owned, operated or maintained by a public utility, as defined in this Ordinance.

Railroad right of way and trackage, but not including any yards, terminals, storage, classification or maintenance facilities or trackage.

Any use that is exempt from regulation by statute.

2.1-6 PENALTIES:

Any person who violates the provisions of this ordinance shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00). Each week that a violation remains uncorrected shall constitute a separate offense.

In case any building or structure is erected, constructed, repaired, converted or maintained, or any land is used in violation of this ordinance, the county or any person, the value of whose property is or may be affected by such violation, may institute an action for injunctive relief or any other appropriate court proceeding to prevent or abate the violation.

2.1-7 REPEALER

The Marshall County Zoning Ordinance adopted as Ordinance No. 98-37 on October 8, 1998 is hereby repealed.

2.1-8 EFFECTIVE DATE

The Ordinance shall be effective upon its passage by the County Board of Marshall County, Illinois

2.2 ADMINISTRATION

2.2-1 ZONING ADMINISTRATOR:

- A. Authorization: A Zoning Administrator shall be appointed by the County Board. The Zoning Administrator must receive authorization from the County Board to expend such funds to employ deputies and clerical assistance to carry out his duties under this Ordinance.
- B. Duties of the Zoning Administrator: The Zoning Administrator, or the duly designated and acting deputy, shall enforce this Ordinance, and in furtherance of said authority shall:
1. Approve and issue all Building Permits and make and maintain records thereof;
 2. Conduct inspections of buildings, structures and uses of land to determine whether they comply with the terms of this Zoning Ordinance;
 3. Have available in book or pamphlet form the compiled text of the Zoning Ordinance and amendments thereto;
 4. Have available zoning maps showing the zoning districts, divisions and classifications in effect in Marshall County;
 5. Maintain for distribution to the public a supply of copies of the zoning maps, the compiled text of the Zoning Ordinance and the rules of the Zoning Board;
 6. Maintain the zoning layer of the county's Geographic Information System (GIS) setting forth the zoning districts for property in Marshall County subject to the provisions of this Ordinance.
 7. Receive, file and forward to the Zoning Board records in all appeals and all applications for variances, special use permits, and amendments to this Ordinance;
 8. Provide such clerical and technical assistance as may be required by the Zoning Board in the exercise of its duties;
 9. Attend meetings of the Marshall County Zoning Committee as an appointed ex-officio member of said Committee;

10. Determine whether a property, building or structure is being used in violation of this Ordinance and notify the owner or occupant of such violation. The Administrator may cite the owner or occupant for such violation, issue a stop work notice, require corrective action be taken if the violation is amenable to being corrected, or request that the State's Attorney take enforcement action;
11. The Zoning Administrator may request a land evaluation and site assessment study from the Marshall-Putnam Soil and Water District to be used as a tool in any application; and
12. Notify the applicant for a building permit in writing of the denial of an application for a building permit should such an application be denied, setting forth the reason for the denial. The failure to set forth that the application fails to comply with a specific provision of this Ordinance shall not constitute a waiver of the applicability of that provision.

2.2-2 ZONING BOARD OF APPEALS:

- A. Authorization: A Zoning Board shall be appointed by the County Board Chairman with the advice and consent of the County Board pursuant to 55 ILCS 5/5-12010.
- B. Membership and Quorum of the Zoning Board: The Zoning Board shall consist of 5 members. A Quorum of the Zoning Board shall be 3 members consisting of the appointed regular or alternate members. Alternate members may vote when regular members are not present, but no more than 5 members may vote. If both alternates are present and only one vote is needed to make a total of 5 voting, the alternates shall flip a coin to see who votes for the hearing. The members shall serve for a term of 5 years. If the County Board Chairman so desires, an additional 2 members may be appointed to serve as alternates for a term of 5 years pursuant to 55 ILCS 5/5-12010. Vacancies shall be filled for the unexpired term of the member whose office has become vacant in the same manner as the original appointment of such member. One of the members of said Zoning Board shall be designated as chairman at the time of appointment, and in the case of vacancy, said County Board shall designate a successor chairman. The County Board shall have the power to remove any member of said Zoning Board for cause after public hearing. The members of the Zoning Board shall be compensated on a per diem basis with a mileage allowance for travel, the amounts to be determined by the County Board.
- C. Jurisdiction of the Zoning Board: The Zoning Board shall have the following jurisdiction and authority:

1. To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator under this Ordinance;
2. To hear and pass upon applications for variances from the regulations and restrictions contained in this Ordinance;
3. To hold public hearings on all applications for amendments to this Ordinance and report its findings and recommendations with respect to proposed amendments to the County Board;
4. To hold public hearings on all applications for special use permits and report its findings and recommendations to the County Board; and
5. To hear and decide all other matters referred to it or upon which it is required to pass under this Ordinance.

No rehearing shall be held on an appeal that has been denied.

No rehearing shall be held on an application for special use or amendment to the zoning ordinance that has been denied, for a period of twelve (12) months from the date of the denial.

D. Meetings and Rules of the Zoning Board:

1. All meetings of the Zoning Board shall be held at the call of the chairman and at such times and places within the County, consistent with the applicable Illinois Statutes, as the Zoning Board may determine. All hearings required by this ordinance to be conducted by the Zoning Board shall be open to the public.
2. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. All testimony shall be given under oath. The chairman, or in his absence the acting chairman, shall administer oaths and may compel the attendance of witnesses.
3. At the request of the Chairman, and upon a majority vote of the members present of the Zoning Board, the duties of the chairman to conduct any hearing required by statute or this Ordinance may be delegated to a Hearing Officer chosen by the Zoning Board. The Hearing Officer so appointed shall conduct the hearing, swear all witnesses who testify at the hearing, and otherwise conduct the hearing. No Hearing Officer appointed under this subparagraph shall have the right to vote or make any decision that is the

responsibility of the Zoning Board. He may assist the board in the preparation of findings of fact and a written decision if so requested by the Zoning Board.

4. The Zoning Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions. Every rule or regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board shall be filed immediately in the office of the Zoning Administrator and shall be a public record.
 5. The Zoning Board shall adopt and make available to the public its own rules of procedure not in conflict with this Ordinance or with the applicable Illinois Statutes and may select or appoint such officers as it deems necessary to perform its duties.
- E. Finality of Decisions of the Zoning Board in Certain Cases: The decisions and findings of the Zoning Board on appeals from a decision of the Zoning Administrator, or upon an application for a variance after a hearing shall, in all instances, be final administrative determinations and shall be subject to judicial review under the provisions of the Illinois Administrative Review Act. The power of the Board to act with respect to amendments and special use permits is advisory only and such action does not constitute a final administrative determination.
- F. Appearance by School Districts: In every hearing before the Zoning Board, any school district within which the property in issue or any part thereof, is located shall have the right to appear and present evidence.

2.2-3 MARSHALL COUNTY ZONING COMMITTEE

- A. The Chairman of the Marshall County Board shall appoint a Zoning Committee with the advice and consent of the County Board.
- B. The Zoning Committee shall consist of seven members, including the Zoning Administrator who shall serve as an ex-officio member, who may vote only in the event of a tie. There shall be a minimum of one member from each county board district and 2 members at-large. Members of the Committee shall serve until their successors are appointed.
- C. The committee shall hold an annual meeting in January of each year. Other meetings shall be called at the request of the Committee Chairman

- D. The Zoning Committee shall have the following powers and duties:
1. To develop and review the provisions of this Ordinance and the zoning district maps and propose changes as needed in the Ordinance. The Zoning Committee Chairman shall file Application for Amendment(s) with the Zoning Administrator who shall schedule the amendment for a public hearing with the Zoning Board;
 2. To receive from the Zoning Administrator copies of applications for amendments to the Zoning Ordinance, and to review those applications;
 3. To hold conferences in regard to proposed plan developments under this Ordinance, including the subdivision ordinance; and
 4. To study and make recommendations to the county board on matters pertaining to land use and development that affect Marshall County.

2.2-4 HEARING OFFICER

- A. Authorization. The position of Hearing Officer is hereby created. The Chairman of the County Board may appoint a Hearing Officer under this section with the advice and consent of the county board.
- B. Powers and Duties. The Hearing Officer shall have the power to conduct a public hearing in any matter assigned to him in lieu of the Zoning Board in any case in which the Zoning Board has the power or duty to conduct a public hearing under the provisions of this Ordinance. The Hearing Officer shall comply with the same standards and be subject to the same duties as required of the Zoning Board. The Hearing Officer shall make such findings of facts and recommendations as required by this Ordinance within 60 days following the completion of the public hearing.
- C. Conduct and Notice of Hearings. Any hearing conducted by a Hearing Officer shall be conducted upon such notice and in such location as is prescribed by this Ordinance for a hearing conducted by the Zoning Board on the same subject matter.
- D. Qualifications. Any Hearing Officer appointed shall have training and

experience in zoning matters, be qualified to conduct public hearings, and make recommendations or findings of fact pertaining to any matter in which arises under this Ordinance.

- E. Compensation. The Hearing Officer shall be entitled to such compensation and reimbursement for expenses as established by the county board. The county board may establish a schedule of fees to defray the costs of providing a Hearing Officer.
- F. Implementation. The county board shall adopt regulations pertaining to the assignment of cases to a Hearing Officer, as well as regulations governing the manner in which public hearings are conducted and matters heard therein passed upon and decided.

CHAPTER 3
ZONING DISTRICTS, MAPS, AND BOUNDARIES

SECTION:

- 3.1 Districts Established
- 3.2 Zoning Maps
- 3.3 Boundaries

3.1 *DISTRICTS ESTABLISHED*

The unincorporated area of Marshall County, Illinois is hereby divided into seven (7) zoning districts which shall be as follows:

A - Agricultural District

Residence Districts:

- R-1 Rural Residence District
- R-2 Single-Family Residence District
- R-3 Multiple-Family Residence District

C - Commercial District

Industrial Districts:

- I-1 Light Industrial District
- I-2 Heavy Industrial District

3.2 *ZONING MAPS*

The boundaries of the zoning districts listed above are as shown on the zoning maps of Marshall County, Illinois. The zoning maps shall consist of the zoning layer of the county's Geographic Information System (GIS). A copy of the maps shall be kept on file in the office of the Zoning Administrator of Marshall County. The Zoning Administrator shall periodically update the zoning maps and Geographic Information System to reflect map amendments to the zoning ordinance.

3.3 *BOUNDARIES*

When uncertainty exists with respect to the boundaries of the various districts as shown on

the zoning maps, particularly where the scale of the map does not readily permit the zoning of a tract or parcel to be determined, the Zoning Administrator may utilize the county's G.I.S. mapping system to determine the zoning of the tract or parcel. In addition, the following rules shall apply:

- A. District boundary lines shall be either the center lines of railroads, highways, streets, alleys or easements, and waterways of the boundary lines of sections, quarter sections, divisions of sections, tracts or lots, or such lines extended unless otherwise indicated;
- B. In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strip shall be in accordance with the dimensions shown on the map measured at right angles from the center line of the street or highway. The length of the frontage of such strips shall be in accordance with dimensions shown on the map from section, quarter section, or division lines, or center lines of streets, highways or railroad rights of way unless otherwise indicated;
- C. Where a lot, held in one ownership on the effective date of this Ordinance, is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided, that this interpretation shall not apply if it increases the less restricted portion of the lot by more than twenty five percent (25%).
- D. All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways waterways and railroad rights-of-way. Where the center line of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

CHAPTER 4
GENERAL REQUIREMENTS FOR ALL ZONING DISTRICTS

SECTION:

- 4.1 Permitted Uses
- 4.2 Special Uses
- 4.3 Lot Size Requirements
- 4.4 Building Bulk Limitations
- 4.5 Signs
- 4.6 Performance Standards
- 4.7 Off-Street Parking and Loading
- 4.8 Number of Buildings on a Lot
- 4.9 Accessory Buildings
- 4.10 Yard Requirements for Open Land
- 4.11 Driveways for Business and Industrial Districts
- 4.12 Disconnected Land
- 4.13 Flood Plain Requirements
- 4.14 Sanitary Facilities
- 4.15 Vision Clearance, Corner Lots
- 4.16 Airports and Surrounding Territory
- 4.17 Home Occupations
- 4.18 Location of Livestock Management Facilities and Livestock Waste-Handling Facilities
- 4.19 Mobile Homes and Recreational Vehicles
- 4.20 Required Fences
- 4.21 Requirements for Mining and Associated Activities
- 4.22 General Requirements for Wind Energy Conversion System (WECS)
- 4.23 Setbacks for Towers other than Wind Energy Conversion Systems (WECS)

4.1 PERMITTED USES

The uses permitted in a zoning district are described in the chapter of this ordinance pertaining to that district. No building or other structure shall hereafter be erected, altered or enlarged, and no use of land shall hereafter be established or enlarged for any use except a use that is named in the list of permitted uses for the zoning district in which the building, structure or land is, or will be located. There shall be two (2) exceptions to the foregoing requirement:

- A. Uses lawfully established on the effective date of this Ordinance may be continued subject to the conditions and restrictions contained in the section entitled, Nonconformities, of this Ordinance.
- B. Special uses may be allowed, but only in accordance with the provisions of Section 6.5, Special Use Permits, of this Ordinance.

4.2 SPECIAL USES

In each zoning district, certain enumerated uses may be permitted only if a special use permit is secured in accordance with the provisions and procedures of Section 6.5, Special Use Permits, of this Ordinance. The special uses which may be allowed in each zoning district are set out in this Ordinance.

4.3 LOT SIZE REQUIREMENTS

No building or other structure shall not hereafter be erected, altered or enlarged, nor shall any use of land be established or enlarged on a lot or tract of land which is:

- A. Smaller in area than the minimum lot area prescribed for the zoning district in which the building, structure or land is located; or
- B. Less than the minimum lot width prescribed for the zoning district in which the building, structure or land is located.

The lot size requirements applicable in each zoning district are set out in this Ordinance.

4.4 BUILDING BULK LIMITATIONS

In this Ordinance, building bulk limitations are expressed in terms of lot coverage, maximum building height, minimum setbacks and minimum side and rear yards.

- A. No building or other structure shall hereafter be erected, altered or enlarged so as to exceed the maximum lot coverage percentage or the maximum building height for the district in which the building or structure is located.
- B. No building or other structure shall hereafter be erected, altered or enlarged, nor shall any use of land be established or enlarged, unless the minimum setbacks and side and rear yards specified for the district in which such building, structure or use of land is located are maintained. All additions to principal buildings (for example, attached garages) shall comply with the setback and yard requirements for the principal building.

The building bulk limitations applicable in each zoning district are as set out in this Ordinance.

4.5 SIGNS

No sign shall hereafter be erected, altered or enlarged unless it complies with the regulations and restrictions imposed on the use and maintenance of signs in the zoning district in which the sign is, or will be, located.

4.6 PERFORMANCE STANDARDS

When the regulations for a zoning district established by this Ordinance contain performance standards, any permitted or special use constructed, established, altered or enlarged after the effective date of this Ordinance shall be operated so as to comply with the performance standards for the district in which it is, or will be, located. No permitted or special use already established on the effective date of this Ordinance shall be altered or modified so as to conflict with, or further conflict with, the applicable performance standards established for the district in which it is located.

4.7 OFF-STREET PARKING AND LOADING

4.7-1 PURPOSE AND SCOPE

Purpose: The purpose of this Section is to alleviate or prevent the congestion of the public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking, loading and unloading of motor vehicles.

Scope of Regulations: The off-street parking and loading provisions of this Ordinance apply as follows: For all buildings and structures erected and all uses of land established after the effective date of this Ordinance, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located.

4.7-2 PARKING SPACE REQUIREMENTS

A. **Size:** A required off-street parking space shall be at least nine feet in width and at least twenty feet in length (9' x 20'), exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven feet (7').

B. **Access:** Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be

designed with appropriate means of access to a street or alleys in a manner which will least interfere with traffic movement. No driveway across public property shall exceed a width of thirty feet (30').

C. Surfacing: All open off-street parking areas and driveways shall be improved with a compacted base. Parking areas and driveways in Commercial and Industrial districts shall be hard surfaced with hot mix asphalt or concrete.

D. Lighting: Illumination of off-street parking areas shall be designed to avoid direct rays of light onto adjacent property and to prevent excessive glare onto street right-of-way.

E. Signs: Accessory signs are permitted in parking areas.

F. Yards: Off-street parking spaces may be located in any yard except required front yards, and shall not be closer than five feet (5') to the lot line.

G. Open and Enclosed Parking Spaces: Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed in a building. No parking decks are permitted in a Residence District.

4.7-3 LOCATION OF ACCESSORY OFF-STREET PARKING FACILITIES:

The location of off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

A. Residence Districts:

1. Parking spaces accessory to dwellings shall be located on the same zoning lot as the residence. No parking space required for a business or industrial use may be located in a residence district. Spaces accessory to dwelling units or other residential uses shall be within three hundred feet (300') of the entrance.

2. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of automobiles belonging to the employees, owners, tenants, visitors, or customers of business or manufacturing establishments. No motor vehicle repair work for hire shall be permitted in conjunction with accessory off-street parking facilities provided in a residence district.

3. Semi-tractors and trailers and other similarly sized commercial vehicles shall not be parked in a residential district.
- B. Business and Industrial Districts: All required parking spaces shall be within one thousand feet (1,000') of the use served. Spaces accessory to uses in a business or industrial district may be located on a lot adjacent to, or directly across a street or alley from, the lot occupied by the use served.
 - C. Joint Parking Facilities: Off-street parking facilities for different buildings, structures or uses or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted; provided, that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use.

4.7-4 NUMBER OF PARKING SPACES REQUIRED:

For the following uses hard surfaced off-street automobile parking shall be provided as required hereinafter. Parking spaces required based on the number of employees shall be considered on the maximum number of employees on duty or residing, or both, on the premises at any one time. When determination of the number of off-street parking spaces required by this Ordinance results in a requirement of a fractional space, any fraction of one-half (2) or less may be disregarded while a fraction in excess of one-half (2) shall be counted as one parking space. The following are the minimum off-street parking requirements for specific uses:

- A. Dwellings: Two (2) spaces for each dwelling unit. In multiple-family buildings (apartments and hotel) an additional space for each employee shall be provided.
- B. Mobile Home Park or Camp: Two (2) spaces for each mobile home space.
- C. Hotels, Motels bed and breakfasts, lodging house, summer resorts and cabins, boarding and rooming houses, and all other similar places offering overnight accommodation: One (1) space for each room offered.
- D. Hospitals, including sanitariums, asylums, orphanages, convalescent homes, homes for the aged and infirm, institutions of a charitable or philanthropic nature and all other similar institutions: At least one (1) parking space for each two (2) patient beds, plus at least one additional parking space for each doctor assigned to the staff, plus at least one (1) additional space for each three (3) employees (including nurses).
- E. Health centers, doctor's offices, hospital satellite offices: five (5) parking spaces shall be provided for each doctor plus one (1) parking space for each employee.

- F. Places of public assembly, including private clubs, lodges and fraternal buildings not providing overnight accommodations, assembly halls, theaters, town halls, convention halls, auditoriums, athletic fields, sports arenas, stadiums, amusement parks, race tracks, fairgrounds, churches, mortuaries, mausoleums, community buildings, libraries, museums and all other similar places of relatively infrequent public assembly: At least one (1) off-street parking space for each five (5) seats provided for patrons' use or at least one (1) off-street parking space for each two hundred (200) square feet of gross floor area used or intended to be used for service to the public as patrons, whichever requires the greater number of parking spaces.
- G. In addition to the requirements of paragraph F, schools, including academies, colleges, universities, elementary schools, junior high schools, high schools and all other similar institutions of learning, nunneries, religious retreats, fire and police stations, cemeteries, experimental and proving grounds, grain storage, public utility substations, booster stations, radio and television relay towers, repeater stations, sawmills, seed processing plants, sewage treatment plants or waterworks shall have at least one (1) off-street parking space for each three (3) employees including administrators, teachers and building maintenance personnel.
- H. In addition to the requirements of paragraph G, schools, including community colleges, colleges, universities, and high schools shall provide (1) off-street parking space for each four (4) students.
- I. Airports and landing fields, golf courses and golf driving ranges, greenhouses, gun clubs, fish and game preserves, boat liveries, kennels, public parks, picnic grounds, television and radio stations, riding academy or commercial stable, veterinary establishment, truck gardening, home occupations and all other places of similar use shall have at least one (1) off-street parking space for each two (2) patrons, clients or members using the facility. The number of parking spaces shall be determined by the greatest number of patrons, clients or members to use the facility at the time of its peak use.
- J. Wholesale, storage and manufacturing establishments: One (1) space for each two (2) employees.
- K. Retail Establishments: One (1) space for each four hundred (400) square feet of gross floor area.
- L. Office uses: One (1) space for each three hundred (300) square feet of gross floor area.

- M. Mixed use: When 2 or more mixed uses are located on the same zoning lot within the same building, parking spaces equal in number to the sum of the separate requirements for each use shall be provided. No parking spaces or portion thereof shall serve as a required space for more than one use unless authorized by the Zoning Administrator.
- N. Parking spaces for other permitted or special uses not listed above shall be provided in accordance with the determination of the Zoning Administrator with respect to the number of spaces that are required to serve employees and/or the necessities of the visiting public at each such use.

4.7-5 OFF-STREET LOADING

Every building or structure used for non-residential uses after the adoption of this Ordinance shall provide adequate space for loading and unloading of vehicles. No road or alley may be used for loading/unloading of vehicles.

- A. Location: All required loading berths shall be located:
 - 1. On the same zoning lot as the use served; and
 - 2. Greater than fifty feet (50') from a Residence District unless completely enclosed by building walls, or a uniformly painted solid fence or wall or any combination thereof, not less than six feet (6') in height; and
 - 3. Greater than forty feet (40') from an intersection;
 - 4. In a rear yard and not in a front or side yard.
- B. Size: Unless otherwise specified, a required loading berth shall be at least twelve feet (12') in width by at least thirty feet (30') in length, exclusive of aisles and maneuvering space, and shall have a vertical clearance of at least fourteen feet (14').
- C. Access: Each required off-street loading berth shall be designed with appropriate means of vehicular access to a road in a manner which will least interfere with traffic movements.
- D. Utilization: Space allocated any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- E. No off-street loading facilities are required in any agricultural district, nor are they

allowed in a residence district.

4.8 NUMBER OF BUILDINGS ON A LOT

Not more than one principal detached residential building shall be located on a zoning lot. A principal detached residential building shall not be located on the same lot with any other principal building.

4.9 ACCESSORY BUILDINGS

- A. No accessory building or structure shall be constructed and occupied on any lot prior to the time of completion of the construction of the principal building to which it is accessory.
- B. No part of any accessory building shall be located closer than five feet (5') from any side or rear property line.

4.10 YARD REQUIREMENTS FOR OPEN LAND

If a lot is, or will be, occupied by a permitted use without buildings or other structures, then the minimum setback and minimum side and rear yards that would otherwise be required for such lot shall be provided and maintained unless some other provision of this Ordinance requires or permits a different setback or a minimum yard. Side and rear yards shall not be required on lots used for garden purposes without buildings or other structures, nor on lots used for public recreation areas.

4.11 DRIVEWAYS FOR BUSINESS AND INDUSTRIAL DISTRICTS

No land which is located in a residence district shall be used for a driveway, walkway or access to any land which is located in a business or industrial district.

4.12 DISCONNECTED LAND

All land which may hereafter be disconnected from any city or village and become part of the unincorporated area of Marshall County shall be automatically classified in the A-Agricultural District pending a public hearing by the Zoning Board and action by the County Board as provided in case of amendments pursuant to this Ordinance. Such public hearing shall be held within sixty (60) days after the effective date of any such disconnection, and final action thereon shall be taken by the County Board within thirty (30) days after the last adjournment of the said public hearings.

4.13 FLOOD PLAIN REQUIREMENTS

In the area above the 100-year flood plain, uses permitted by the zoning district otherwise established for the lot, are allowed subject to the regulations of such district; provided, however, that the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least one foot (1') above the elevation of the nearest point of the 100-year flood plain.

In the area below the 100-year flood plain, land may be used to supply open space or lot area requirements of a lot partially located above; provided, however, that no building or structure shall be located below the 100-year flood plain.

4.14 SANITARY FACILITIES

Private sewage disposal systems shall be constructed and located as set forth in the current Marshall County Private Sewage Disposal Code.

4.15 VISION CLEARANCE, CORNER LOTS

No building or structure hereafter erected and no planting or other obstruction to the vision of drivers of motor vehicles shall be located:

- A. In any residential district, exceeding a height of three feet (3') above the street grade within twenty five feet (25') of the intersecting street lines bordering corner lots; and
- B. In any manufacturing district, within twelve feet (12') of the intersecting street lines bordering a corner lot; provided that this regulation shall not apply to any part of a building above the first floor.

4.16 AIRPORTS AND SURROUNDING TERRITORY

Airports and surrounding territory are subject to the rules and regulations of the State of Illinois Department of Transportation's Aeronautic Division and to the following:

- A. Height of structures in areas surrounding the boundaries of airports having an established approach plan that has been approved by the State of Illinois Department of Transportation's Aeronautic Division shall be in accordance with the requirements set forth in the approach plan. (A copy of the Marshall County Airport Zoning Regulations can be picked at the Zoning Administrator's office.)
- B. Height of structures, in areas ten thousand (10,000) lineal feet beyond the boundaries

of airports that do not have an established approach plan shall be governed by the following:

1. For an airport having the longest runway less than three thousand nine hundred fifty (3,950) lineal feet in length, structures located just beyond the boundaries of the airport shall not be in excess of fifteen feet (15') in height, and for every two hundred (200) lineal feet of additional distance from the airport boundaries, the height of structures may be increased by not more than ten feet (10').
 2. For an airport having a runway of three thousand nine hundred fifty (3,950) lineal feet or more in length, structures just beyond the boundaries of the airport shall not be in excess of fifteen feet (15') in height; and for every two hundred (200) lineal feet of additional distance from the airport boundaries, the height of structures may be increased by not more than five feet (5'); and where a runway has been designated as an instrument runway, the height of structures may be increased by not more than four feet (4') in every two hundred (200) lineal feet of additional distance from airport boundaries, for the first ten thousand (10,000) lineal feet, and for the area covered in the next forty thousand (40,000) lineal feet, the height of structures may be increased by not more than five feet (5') in every additional two hundred (200) lineal feet.
- C. Structures exceeding the limiting heights shall be considered obstruction to air navigation unless found not to be objectionable after special aeronautical study. Such structures may be specifically authorized as a variation after public hearing by the Zoning Board as provided by law.

4.17 HOME OCCUPATIONS

A home occupation is a permitted use in A, R-1 and R-2 Districts. Where a home occupation is permitted in a particular district, it shall:

- A. Not change the character of the dwelling as a private residence or create or become a nuisance due to vehicle traffic or otherwise;
- B. Have at least one permanent resident of the dwelling unit engaged in the business;
- C. Not have more than two employees in addition to the permanent residents engaged in the business;
- D. Have no external display or advertisement, other than a non-illuminated sign which is

a maximum of 4 square feet unless otherwise allowed by this ordinance;

- E. Have no external storage or materials, containers, finished products, equipment or associated trucks or commercial vehicles;
- F. The maximum floor area devoted to the home occupation use is 25% of the gross floor area of the dwelling;
- G. Have any and all parts of the home occupation on a lot confined to a dwelling unit on the lot;
- H. Be conducted in whole or in part in an accessory building in the case of a home occupation; and
- I. Not have more than one home occupation per dwelling unit or lot.

4.18 LOCATION OF LIVESTOCK MANAGEMENT FACILITIES AND LIVESTOCK WASTE-HANDLING FACILITIES

The facility must comply with all applicable state regulations.

4.19 MOBILE HOMES AND RECREATIONAL VEHICLES

- A. Recreational vehicles as defined in Section 1.2 of this Ordinance shall not be occupied for dwelling purposes except in lawfully established mobile home parks or commercial campgrounds. Mobile homes shall not be occupied for dwelling purposes except in lawfully established mobile home parks, commercial campgrounds or mobile home subdivisions. However, the temporary use of a mobile home or recreational vehicle for dwelling purposes may be permitted when one or more of the conditions in Section 4.19B or Section 4.19C are met.
- B. In the event of a fire or natural disaster which results in the partial or total demolition of a residence making it unfit for human habitation, the Zoning Administrator, may, upon application from the owner of such residence, issue a temporary shelter permit for the use of a mobile home or recreational vehicle for each family during rehabilitation of the original residence or construction of a new residence. The temporary shelter permit shall be limited to a period of six (6) months. Upon expiration of the six (6) month period, an application may be presented to the Zoning Committee when one or more of the conditions in Section 4.19C are met.
- C. Temporary use of a mobile home or recreational vehicle for dwelling purposes may

be granted only with the issuance of a special use permit, which is valid for one year. The deadline for review applications is November 15th of each year and renewals will be issued in January of each year.

One or more of the following conditions must be met:

1. **Hardship:** When the occupant of the mobile home or recreational vehicle has an extreme financial or physical hardship, provided evidence has been submitted as to the duration of said use and said permit issued is limited to said duration. The occupant of the mobile home shall be occupied by a relative standing in the relation of son, daughter, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, father, mother, brother, sister, grandchild, grandparent of said property owner or the owner's spouse.
2. **Agricultural:** Providing that the occupant of the mobile home or recreational vehicle is engaged in the business of agriculture as the principal source of income and the owner of the land on which the trailer or mobile home is located also owns the trailer or mobile home and continues to own the trailer or mobile home during the period of the permit. Said permit shall be issued on a year to year basis.
3. **Construction:** When the occupant desires to build a home.

D. All applications for a permit shall be accompanied by an affidavit, stating as follows:

1. Names and address of occupants;
2. Location of use;
3. Description of trailer;
4. Reason for application;
5. Statement that a change in usage, name or number of occupants, or location will be reported to the Zoning Administrator immediately; and
6. Must comply with the Zoning and Health Ordinances of Marshall County.

E. Once a permit has been issued, failure to comply with items 5 and/or 6 of paragraph D above shall be sufficient for the Zoning Administrator to revoke the permits.

4.20 REQUIRED FENCES

A six foot (6') high fence or wall shall be constructed along the perimeter of all areas considered by the Zoning Board to be dangerous to the public.

4.21 REQUIREMENTS FOR MINING AND ASSOCIATED ACTIVITIES

A. Application of this Section

Any activity involving mining and handling aggregates shall comply with the requirements of this Section, regardless of the zoning district in which the activity is being conducted and regardless whether the activity is a permitted use or a special permitted use in the zoning district. Such activities include but are not limited to, the excavation, extraction, quarrying, mining, crushing, washing, processing or stockpiling of sand, gravel, or other raw materials from the earth, or recycling broken concrete and asphalt, a ready-mix concrete plant, an asphalt plant, or other related uses. This section does not apply if removal of soil is associated to a building permit or area disturbed is less than 10,000 square feet.

B. Information required.

In addition to any information required by the Zoning Administrator and this Ordinance for a special use permit, an application for a special use permit to conduct mining activities shall contain the following additional information:

1. **General Requirements:** Each application shall be accompanied by a United States Geological Survey Topographical Map outlining the acreage to be affected and adequately showing the land surrounding the acreage to be affected. Each application for a permit shall be submitted to the Zoning Department pursuant to this Ordinance and shall contain the following information:

- a. A statement of the ownership of the land and of the ownership of the minerals to be mined;
- b. The identity and address of the proposed operator and the location of any other mining operations conducted by the operator;
- c. A list of the minerals to be mined; or from which the refuse was derived;
- d. The character and composition of the vegetation and wildlife on the lands to be affected;
- e. The current and past uses of the lands to be affected;
- f. The current zoning classification of the lands for which the permit is

sought;

- g. The nature, depth and proposed disposition of the overburden;
- h. The estimated depth to which the mineral deposit will be mined;
- i. The technique to be used in surface mining;
- j. The location and names of all streams, creeks, bodies of water and underground water resources within the land to be affected;
- k. The drainage on and away from the lands previous to being affected during mining and after mining and reclamation is completed including directional flow of water, natural and artificial drainage and waterways, and streams or tributaries receiving the discharge;
- l. The location of buildings and utility lines within lands to be affected;
- m. Disclosure of the forfeiture or notice of forfeiture of any reclamation bond or reclamation security filed by the applicant or any operator related to the applicant, with this state or any other state, agency of state government or unit of local government. For the purposes of this subsection "operator related to the applicant" means: any person, corporation or entity, directly or indirectly controlling, controlled by or under common control of the individual or corporate applicant, or any officer or director of an entity or corporation performing similar functions with respect to another entity, corporation or person related to the individual or corporate applicant.
- n. The results of core drillings of consolidated materials in the overburden when required by the Zoning Administrator, but not more than one core drill may be required for each 25 acres of land for which a permit is sought.
- o. A detailed soil map of medium intensity prepared by the Soil Conservation Service which shows the kind and extent of soils to be affected by mining. The Zoning Administrator may waive this requirement if such a map is either not in existence or is not readily available.
- p. A detailed noise study setting forth the noise levels of activities to be conducted on the property, and a plan for complying with the requirements of this Ordinance and the Illinois Environmental Protection Act relating to noise emissions as measured at the property line.

2. Conservation and Reclamation Plan and Map. Each application for a permit shall contain a conservation and reclamation plan for each geographically distinct mining site or refuse disposal site for which the permit is being sought. Included with the plan shall be maps of the area to be affected designating which parts of the lands shown are to be reclaimed for:

- a. forest;
- b. pasture;
- c. crop;
- d. horticultural;
- e. residential;
- f. recreational;
- g. industrial; or
- h. other uses, including food, shelter and ground cover for wildlife.

3. The reclamation plan, together with the reclamation maps shall:

- a. provide for timely compliance with all of the requirements of this Ordinance by feasible and available means; and
- b. provide for storage of all overburden and refuse.

B. Separation Distances

No mining or associated activities will be permitted within 1000 feet of a dwelling, public school, nursing home, health clinic, hospital, and church or residence district.

C. Setback Distances

No mining activities are permitted within 75 feet of the lot line, except for fencing, berms and landscaping.

D. Berms, Screening and Site Security

1. All operations will be screened with an earthen berm a minimum of 10 feet high, with side slopes not steeper than 3: 1 on the fore slope and 2: 1 on the back slope.
2. The berm shall be seeded with a conservation grass mixture or native grasses, which will be established within one year of construction. The vegetation shall be maintained appropriately. Screening, in addition to berms, may be required as a condition to the issuance of the Special Use Permit, if deemed necessary.

E. Access and Traffic

All access points to and from the operation, including conveyors, railroads and roads, shall be identified by the owner and operator in the site plan and be approved by the Special Use Permit.

Approval of the Special Use Permit does not relieve the owner and operator for the liability of accidents or damage caused by their negligent actions. The repair of any damage caused to county or township roads by trucks or equipment using the facility will be the responsibility of the owner and operator.

F. Water Table

No extraction operation shall permanently or harmfully lower the water table of surrounding properties. The operator shall be liable for the cost of repair or replacement of any potable water well or pump, plus the cost of buying and hauling water, which has been determined to be harmed by the operation.

G. Hours of Operation

- i. Operation is prohibited on all Sundays, and Holidays for New Years Day, Memorial Day, July 4th, Labor Day, Thanksgiving and Christmas.
- ii. On Mondays through Fridays, operation, except maintenance, is allowed only between the hours of 7 AM or Sunrise, which ever is earlier, and 6 PM.
- iii. On Saturdays, operation, except maintenance, is allowed only between the hours of 7 AM or Sunrise, which ever is earlier, to a maximum of eight hours, and no later than 4 PM.
- iv. Operation more than one mile from any residence is not limited under this section, except for the Days of Operation.

H. Fill Material

No material imported from off the property, intended to be used as permanent fill, will be allowed, unless it is "clean construction or demolition debris", as defined in 415 ILCS 5/3.160 (b) or uncontaminated soil. All fill material and its placement will be consistent with the planned end use.

The Owner and Operator shall provide and adhere to a Fill Material Acceptance Plan, which will consist of the following:

1. General description of the flow of material from the origin, e.g. IDOT construction or municipal construction, to accumulation sites, loading, hauling, unloading and placement in the reclamation area.
2. Description of any construction site inspections and control, receiving facility gate control and record-keeping. Procedure the facility uses for

rejected loads will be addressed.

3. Copies of permits and/or specifications which the material will adhere to in other jurisdictions, e.g. municipal and/or IDOT construction specifications and permits.
4. A plan and description of stockpiling and loading at the accumulation site which assures that adequate security is provided, eliminate risk of contamination by fly dumping or spills.

I. Reclamation Requirements: The owner and operator shall determine, and shall set forth in a written reclamation plan, which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, residential, recreational, industrial, or other uses including, but not limited to, food, shelter, and ground cover for wildlife. Site conditions and soil capabilities shall be the determining factors when selecting the type of reclamation for a particular area. It is recommended that a trained technician capable of conducting soil sample analysis be consulted.

1. Time Requirement for Completion of Reclamation

a. All reclamation provided for in this Ordinance shall be carried to completion by the owner and operator prior to the expiration of 3 years after active use, as determined by the Zoning Administrator.

b. Exceptions

When extension of the reclamation period is necessary to allow continued mining operation otherwise permitted by this Ordinance, or to accomplish acceptable reclamation, such request for extension shall be justified in writing to the Zoning Administrator. It shall be within the discretion of the Zoning Administrator to grant such extension consistent with this Ordinance. If the lands are not satisfactorily reclaimed and if the Zoning Administrator denies the request for an extension of the reclamation period, the Zoning Administrator shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed or, in the alternative, the Zoning Administrator shall provide that the operator cover such areas within one (1) year with material capable of being vegetated in accordance with vegetative standards adopted by the Department of Natural Resources.

2. Grading Requirements:

a. Fifteen Percent Requirement

All land affected by surface mining, except as otherwise provided for in this Ordinance shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use. Such slopes shall have no more than a 15% grade.

b. Exceptions to Fifteen Percent Requirement.

The grade shall not exceed 30% on any of the following:

i. lands to be reclaimed to forest plantation or recreational or wildlife land uses;

ii. The outside slopes of all overburden deposition areas; and

iii. The outside slopes of all box cut spoil areas.

c. The final cut spoil and the side slopes of haulage road inclines can remain at a slope equal to the angle of repose of the material, provided the material can support vegetative cover.

d. In no case shall the Zoning Administrator require grading to a lesser slope than the original grade of the overburden existing prior to mining.

3. Terrace Requirement:

Where acceptable soil conservation practices make it advisable to do so, Owners and operators shall terrace reclaimed lands for the prevention of excess erosion.

4. Land Not Requiring Reclamation:

In cases where pools or lakes capable of supporting aquatic life may be formed by rainfall or drainage runoff from adjoining land, the depressed haulage roads or final cuts or any other area to be occupied by pools or lakes, if approved by the Zoning Administrator, shall not require any further reclamation. Where the Administrator determines that a road, dry pit bottom or ditch is consistent with and necessary to the conservation and reclamation plan for an area, no further reclamation shall be required.

5. Land to be Reclaimed for Row Crop Agriculture:

When the Zoning Administrator determines that the land to be reclaimed is

capable of being reclaimed to row crop agricultural purposes based on U.S. Soil Conservation survey classifications of the land prior to mining, the owner and operator shall comply with the requirements of Section 300.110(d) of Title 62 Illinois Administrative Code Part 300.

6. Water Impoundments:

All runoff water shall be impounded, drained, or treated so as to reduce soil erosion, damage to un-mined lands and the pollution of streams and other waters. The owner and operator shall construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound waters, provided the formation of the lakes or ponds will not interfere with underground or other mining operations; other subsequent uses of the area approved by the Zoning Administrator or damage adjoining property. Such water impoundments shall be approved based on the expected ability of the lakes or ponds to support desirable aquatic life and shall have minimum depths in accordance with standards for fish stocking in the various areas of the State recommended by the Department of Natural Resources.

7. Covering Toxic Materials:

Acid forming materials in the exposed face of the mined mineral seam or seams shall be covered with not less than 4 feet of water, or other materials, which shall be placed with slopes having no more than 30% grade, capable of supporting plant and animal life.

8. Vegetative Cover Required:

Unless the approved reclamation plan is inconsistent with vegetative cover, the soil shall be prepared and planted with trees, shrubs, grasses and legumes to provide suitable vegetative cover, in accordance with standards adopted by the Department of Natural Resources

9. Removal of Abandoned Haulage Roads and Mine Drainage Ditches:

All abandoned haulage roads and all mine drainage ditches shall be removed and graded, except where the Zoning Administrator determines that a road or ditch is consistent with and necessary to the conservation and reclamation plan.

10. Land Fill Requirements:

The reclamation requirements under this Ordinance do not apply to affected land use for a landfill if the sanitary landfill is approved by the Environmental Protection Agency. The Environmental Protection Agency may regulate the amount of land to be used for that purpose and may establish a time schedule for the orderly and timely completion of the landfill. Any affected land designated for a landfill and not used for that purpose within 5 years is subject to the reclamation provisions of this Ordinance.

J. Compliance with State and Federal Laws and Regulations

In addition to the requirements herein, all operations shall comply with the Illinois Surface-Mined Land Conservation and Reclamation Act, all provisions of the Illinois Administrative Code pertaining to surface mining, the regulations of the Illinois and U.S. Environmental Protection Agencies, and other applicable state and federal laws and regulations.

K. Noise Requirements

1. No owner or operator shall cause or allow the emission of sound beyond the boundaries of the property, as property is defined in Section 25 of the Illinois Environmental Protection Act, so as to cause noise pollution to any neighboring property or to violate any of the provisions of this Ordinance.
2. Each owner and operator shall comply with the requirements of Parts 900, 901 and 910 of Title 35, Subtitle H, Chapter I of the Illinois Administrative Code pertaining to noise pollution, the requirements of which are hereby adopted.

L. Bonds

1. A Special Use Permit will not be granted to conduct mining or other related activities, nor shall mining activities be conducted, until a bond meeting the requirements of this Section has been filed with the County Clerk. Operations beginning mining after the effective date of this ordinance, shall comply with 62 IAC 300.40, except (a), (b) and (e). The referenced sections are listed in Section 4.2.
2. The bond shall be filed prior to commencement of the operation license period and shall be in an amount equal or greater than the reclamation cost estimate for the entire area for which reclamation has not been completed and released by the County Engineer. The amount of the bond shall be \$2,500 per acre or the amount of a reclamation cost estimate prepared and sealed by a Licensed Professional Engineer.

3. Definitions

a. Bond means surety bond or other security in lieu thereof.

b. Surety bond means an indemnity agreement in a sum certain payable to the County of Marshall, Illinois executed by the owner and operator as principals and which is supported by the performance guarantee of a corporation licensed to do business as a surety in Illinois.

c. Other security means an indemnity agreement in a sum certain executed by the owner and operator as principal which is supported by the deposit with the County of Marshall of one or more of the following:

i. A cash account, which shall be the deposit of cash in one or more federally-insured or equivalently protected accounts, payable only to the County of Marshall, Illinois upon demand, or the deposit of cash directly with the County of Marshall;

ii. Negotiable government securities, endorsed to the order of, and placed in the possession of the County of Marshall;

iii. An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the County of Marshall, Illinois upon presentation;

iv. Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the County of Marshall, Illinois and placed in its possession.

4. Bond Requirements

a. Form.

Any bond shall be in such form and content as the State's Attorney prescribes payable to the "County of Marshall, Illinois."

b. Conditions Generally

i. Each bond shall conform to the requirements of this Ordinance and with the declared purpose for which the application for the permit is filed, and shall be in the amounts prescribed by the Act and established by the State's Attorney governing such

purpose and the proposed area affected.

ii. Bonds shall remain in effect until the affected lands have been reclaimed, approved and released by the County of Marshall, pursuant to this Ordinance.

5. Surety Bond Requirements

- a. Bonds shall be signed by the owner and operator as principal, and by a good and sufficient corporate surety, approved by the State's Attorney and licensed to do business in Illinois as surety.
- b. Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than 90 days notice to the County of Marshall. Such notice shall be served upon the County of Marshall in writing by registered or certified mail to the following addresses:

State's Attorney
County of Marshall
County Courthouse
Lacon, IL 61540

Marshall County Zoning Administrator
Marshall County Courthouse
Lacon, IL 61540

- c. Not less than 10 days prior to the expiration of the 90 days notice of cancellation, the owner and operator must deliver to the County of Marshall a replacement bond. If such bond is not delivered, all surface mine operations and use of slurry ponds and gob disposal areas by that operator must cease. The replacement bond shall be accompanied by a letter from the bonding company acknowledging the bond is in lieu of a formerly cancelled bond and identifying the dates of the permit period which the bond is to cover.
- d. If the license to do business in Illinois of any surety upon a bond filed with the County of Marshall shall be suspended or revoked, the owner and operator, within 30 days after receiving notice thereof from the County of Marshall, shall substitute for any surety a good and sufficient corporate surety approved by the State's Attorney and licensed to do business in Illinois as a surety. Upon the failure of the operator to make said substitution of surety, the County of Marshall shall have the right to suspend the permit of the operator until substitution has been made.

6. Other Securities Requirements

a. Letters of credit shall be subject to the following conditions:

i. The letter may only be issued by a bank organized or authorized to do business in the United States ("issuing bank"). If the issuing bank does not have an office for collection in Illinois, there shall be a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois.

ii. Letters of credit shall be irrevocable during their terms. A letter of credit used as security in areas requiring continuous bond coverage shall be forfeited and shall be collected by the County of Marshall if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date.

iii. The letter of credit shall be payable to the County of Marshall, Illinois upon demand, in part or in full, upon receipt from the County of Marshall of a notice of forfeiture issued in accordance with this Ordinance.

iv. The letter of credit shall provide on its face that the County of Marshall, Illinois, its lawful assigns, or the attorneys for the County of Marshall, Illinois or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Marshall County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.

b. Certificates of deposit shall be subject to the following conditions:

i. The County of Marshall shall require that certificates of deposit be made payable to or assigned to the County of Marshall both in writing and upon the records of the bank issuing the certificates. If assigned, the County of Marshall shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.

ii. The County of Marshall shall not accept an individual certificate of deposit in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit

Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

- c. Cash accounts shall be subject to the following conditions:
 - i. The County of Marshall may authorize the owner and operator to supplement the bond through the establishment of a cash account in one or more federally-insured or equivalently protected accounts made payable upon demand to, or deposited directly with, the County of Marshall.
 - ii. Any interest paid on a cash account shall be returned to the owner and operator.
 - iii. The County of Marshall shall not accept an individual cash account in an amount in excess of \$100,000 or the maximum insurable amount as determined by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

M. Inspections

The County Engineer and the Zoning Administrator shall have the right of inspection for compliance with the provisions of this Ordinance. Failure to comply with a request for inspection shall result in the immediate suspension of the special use permit, and all activities allowed by such permit shall immediately cease. The County may obtain a random sample, at any time, from any fill, stockpile or unloading facility, of the material, which is planned to be used for reclamation. The owner and operator shall be responsible for the laboratory cost of one sample per year for the constituents described below. If a sample result fails to achieve the Tier 1 Remediation Objectives for Residential Properties provided in 35 Illinois Administrative Code 742, the County Engineer may consult with the Owner/Operator and the IEPA to determine if there is a health hazard. Additionally, the County may require sampling and testing, at the Operators expense, for three consecutive samples, according to the following schedule:

1. A composite sample will be obtained from every 5,000 cubic yards of the fill material from an accumulation site. The composite sample will consist of 5 grab samples, representing approximately 1,000 cubic yards, each.
2. Each composite sample will be tested for all constituents listed in the Tier 1 Table of TACO, Title 35 of the Illinois Administrative Code, Tiered Approach to Corrective Actions, except for volatile organic compounds.

3. Fill material that is not received through a separate accumulation site, with a previously described and accepted gate control and record-keeping plan, shall provide a minimum of one sample and test from each location where the fill material is generated.
4. The requirement for sampling and testing may be removed at any time that the operator provides proof that an acceptable Fill Material Acceptance Plan is implemented.

4.22 GENERAL REQUIREMENTS FOR WIND ENERGY CONVERSION SYSTEMS (WECS) IN MARSHALL COUNTY

A single Special Use Permit Application shall be submitted for the entire WECS Project. If a Special Use Permit is granted pursuant to this Ordinance, Marshall County shall issue a single building permit for construction of the entire WECS project. The Special Use Permit Application fee shall be based upon 5 acres per tower. The Building Permit Fee will be as stated in this Ordinance.

1. APPLICABILITY

This section governs the siting of WECS and Substations that generate electricity to be sold to wholesale or retail markets. Owners of WECSs with an aggregate generating capacity of 3MW or less and rotor diameter of 140' or less, who locate the WECSs on their own property, are exempt from Section 4.22 except for setbacks.

2. PROHIBITION

No WECS or Substation governed by Section 1 of this Ordinance shall be constructed, erected, installed, or located within Marshall County until a Special Use Permit has been granted pursuant to this Ordinance.

3. DEFINITIONS

- a. "Applicant" means the entity or person who submits application for the placement of any WECS or Substations.
- b. "Financial Assurance" means reasonable assurance from a credit worthy party, examples of which include a surety bond, trust instrument, cash escrow, and corporate guaranty from an entity whose credit is investment grade (reviewed on an annual basis) or irrevocable letter of credit. The Financial Assurance shall be reviewed and approved as to form by the Marshall County State's Attorney.
- c. "Operator" means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third party subcontractors.
- d. "Owner" means the entity or entities with an ownership interest in the WECS(s), including their respective successors and assigns. Owner does not mean (I) the property owner from whom property rights are obtained for

locating the WECS (unless the property owner has an ownership interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such persons seeks to sell the WECS(s) at the earliest practicable date.

- e. "Professional Engineer" means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- f. "Primary Structure" means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages, silos and barns.
- g. "Road Authority" means the agency/property owner that has jurisdiction of the road, i.e. Township, County, State, Municipality or private.
- h. "Substation" means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- i. "Wind Energy Conversion System" (or "WECS") means all necessary devices that together convert wind energy into electricity and deliver that electricity to the utility's transmission lines, including but not limited to the rotor, nacelle, generator, WECS Tower, electrical components, WECS foundation, transformer, electrical cabling from the WECS Tower to the Substation(s), meteorological towers, communications facilities, and other required facilities and equipment.
- j. "WECS Project" means the collection of WECS and Substations as specified in the Special Use Permit Application pursuant to Section 4 of this Ordinance.
- k. "WECS Tower" means the support structure to which the nacelle and rotor are attached.
- l. "WECS Tower Height" means the distance from the center of the hub to the top surface of the WECS foundation.

4. APPLICATION

- a. To obtain placement approval, the Applicant must first submit a Special Use Permit Application to the County Zoning Administrator. The County Zoning Administrator will review the Special Use Permit Application for completeness and his review may include review by the Zoning Committee.
- b. The Special Use Permit Application shall contain or be accompanied by the following information:
 - i. The name(s), address(es) and phone number(s) of the Applicant(s), and if known, Owner and Operator, and all property owner(s).

- ii. Description of the Applicant, and if known, the Owner and Operator, including their respective business structures.
 - iii. General Location
 - iv. WECS Project summary, including to the extent available:
 - 1. Maximum WECS generating capacity
 - 2. Examples of the potential equipment manufacturer(s) and type(s)
 - 3. Maximum number of WECS
 - 4. Maximum WECS Tower height
 - 5. Maximum WECS rotor diameter
 - v. A site plan for the installation of WECSs showing planned locations of:
 - each WECS Tower, guy lines and anchor bases (if any),
 - Primary Structure(s),
 - property lines (including identification of adjoining properties),
 - setback lines,
 - public access roads and turnout locations,
 - Substation(s),
 - electrical cabling from the WECS Towers to the Substation(s),
 - electrical cabling (if any) from the Substation(s) to the utility transmission line(s),
 - ancillary equipment,
 - third party transmission lines,
 - layout of all structures within the geographical boundaries of any applicable setback;
 - vi. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance at the time required by this Ordinance.
 - vii. Any other information normally required by Marshall County as part of its Zoning Ordinance.
- c. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) whose operations may be interfered with by the WECS Project, copies of the project summary (Section 4.b.iv) and site plan (Section 4.b.v). To the extent that the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s), the Applicant shall take reasonable measures to mitigate such anticipated interference.

- d. The Applicant, through the use of a qualified professional, shall appropriately demonstrate that noise levels at Primary Structures from the operation of the WECS comply with the Illinois Pollution Control Board (IPCB) noise requirements.
- e. A qualified professional, such as an ornithologist or wildlife biologist, shall conduct an avian habitat study to determine if the installation of WECSs will have a substantial adverse impact on legally protected birds.
- f. The Applicant shall notify Marshall County Zoning Administrator of any material changes to the information provided in Section 4.b above that occurs while the Special Use Permit Application is being reviewed.
- g. The County Zoning Administrator shall notify Applicant when the Application is complete and schedule a Zoning Board public hearing.

5. SETBACKS

- a. All WECS Towers shall be set back a distance of at least 1000 feet from any Primary Structure. The setback distance shall be measured from the nearest corner of the Primary Structure to the center of the WECS Tower foundation. The owner of the Primary Structure may waive this setback requirement.
- b. All WECS Towers shall be set back a distance of at least 1.0 times the WECS Tower Height from public roads, third party transmission lines, and communication towers. Setback distance shall be measured from the center of the WECS Tower foundation to the closest point of public road right-of-way, transmission line, or communication tower. The Road Authority, transmission line owner or communication tower owner, may waive this setback requirement.
- c. All WECS Towers shall be set back a distance of at least 1.0 times the WECS Tower Height from property lines of adjacent property owners. Setback distance shall be measured from the center of the WECS Tower foundation to closest property line. The affected adjacent property owner may waive this setback requirement.
- d. The Applicant does not need to obtain a variance from the County upon waiver by either the Road Authority, property owner, or any third party of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be contained in a memorandum or other instrument recorded in the County's public records as part of the chain of title of the subject property.

6. USE OF PUBLIC ROADS

An Applicant, Owner or Operator, shall prior to construction:

- a. Identify all public or private roads in Marshall County to be used for the purpose of transporting overweight or oversized WECS or Substation parts and /or overweight or oversized equipment for construction, operation, or

maintenance of the WECS(s) or Substation(s), other than roads located on land for which property rights are obtained for locating the WECS.

- b. Identify and contact the relevant Road Authority.
- c. Negotiate an agreement with the relevant Road Authority concerning:
 - i. Applicable weight and size permits
 - ii. Method to assess potential future damage
 - iii. Financial Assurance to repair any damage caused by construction, operation, or maintenance of the WECS.
- d. Provide Marshall County Zoning Administrator with a signed copy of agreement.

7. DESIGN AND INSTALLATION

- a. Design Safety Certification
 - i. WECSs shall conform to applicable industry standards, including those of the American National Standards Institute (“ANSI”). Prior to installation, Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (“UL”), Det Norske Veritas (“DNV), Germanischer Lloyd Wind Energie (“GL”), or an equivalent third party.
 - ii. Upon approval of a Special Use Permit Application and as part of the building permit application, a Structural Engineer licensed in the State of Illinois or other qualified professional reasonably acceptable to the County, shall certify, as necessary, that the foundation and tower design of the WECS Tower is within accepted professional standards, given local soil and climate conditions.
- b. Controls and Brakes
All WECS shall be equipped with a braking system that conforms to applicable industry standards.
- c. Electrical Components
All electrical components of the WECS shall conform to applicable standards and codes.
- d. Color
Towers and blades shall be white or gray or another non-reflective unobtrusive color.
- e. Lighting
The Applicant shall comply with all applicable FAA requirements for lighting.
- f. Warning Signs
 - i. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
 - ii. Visible, reflective or colored objects, such as flags, reflectors, or tape shall be placed on the anchor points of guy wires and along the guy wires up to a height of 15 feet from the ground.

- g. **Climb Prevention**
All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as interior ladders and locked doors.
- h. **Compliance with Additional Regulations**
Nothing in this Ordinance is intended to preempt other applicable state and federal laws and regulations, and anything in this Ordinance that is inconsistent with other applicable state and federal laws and regulations shall be deemed to be without legal force or effect.

8. OPERATION

- a. **Maintenance**
Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require a new building permit. In-kind replacements, repairs or improvements shall not require new building permits.
- b. **Interference**
The Owner or Operator shall take reasonable steps to respond to or address any written complaints about interference with transmission and reception caused by the WECSs.
- c. **Noise Levels**
Noise levels from each WECS or WECS Project at Primary Structures shall be in compliance with applicable Illinois Pollution Control Board (IPCB) regulations.
- d. **Coordination with Local Fire Department**
 - i. The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.
 - ii. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
 - iii. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
- e. **Materials Handling, Storage and Disposal**
 - i. All solid waste as defined by Illinois State Law related to the construction, operation and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all applicable federal, state and local laws.
 - ii. All hazardous materials related to the construction, operation and maintenance of the WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

9. DECOMMISSIONING PLAN

Prior to receiving the Building Permit under this Ordinance, the County and the Applicant, Owner, and/or Operator must formulate a Decommissioning Plan to ensure that the WECS Project is properly decommissioned. The Decommissioning Plan shall include:

- a. Provisions describing the triggering events for decommissioning the WECS Project;
- b. Provisions for the removal of above-ground structures, debris and underground foundations and cables down to a depth of at least three feet below the soil surface.
- c. Provisions for the restoration of the soil and vegetation;
- d. An estimate of the decommissioning costs certified by a Professional Engineer or other qualified professional reasonably acceptable to the County, which shall be updated and submitted to the Marshall County Zoning Administrator every (4) four years;
- e. Financial Assurance, obtained by the Owner or Operator at a specified date following commencement of operations, for the purpose of adequately performing decommissioning, in an amount equal to the Professional Engineer's or other qualified professional reasonably acceptable to the County, certified estimate of the decommissioning costs.
- f. Identification of and procedures for County access to Financial Assurances.
- g. A provision that the terms of Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and
- h. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.

This plan shall be reviewed and approved by the Zoning Administrator, State's Attorney and Zoning Committee.

4.23 SETBACKS FOR TOWERS OTHER THAN WIND ENERGY CONVERSION SYSTEMS (WECS) IN MARSHALL COUNTY

A tower shall be setback a distance of 1.0 times the total height from property lines of property owners within the radius of the tower height or road right of ways. The setback distance shall be measured from the center of the tower base to the property line. The total height shall be measured from the base of the tower to the highest point on the tower, including any attachments to the tower. WECS tower setbacks are controlled by Section 4.22.5 of this Ordinance. The affected property owners or road authority within a radius of the tower height may waive this setback requirement in writing. No Application for Variance is required if the waiver is granted.

4.24 SOLAR ENERGY SYSTEMS

1. Solar Energy Systems may be attached to existing conforming structures as long as the system does not project beyond the footprint of the existing building.
2. Solar Energy Systems may not be attached to nonconforming structures.
3. Stand-alone Solar Energy Systems shall be governed by all rules which apply to accessory buildings. For the purposes of measuring setbacks, maximum lot coverage area and building permit fees, the maximum operating footprint of the system shall be used.
4. A building permit is not required for a Solar Energy System installed on existing structures in Agricultural or Residential Districts if the system is use for personal or farm use and the amount of excess energy sold to other users is less than the amount consumed by the property owner.
5. Any upgrade to a public road that is required by the solar facility shall be subject to a Road Use Agreement with the road jurisdiction, which will identify the type of improvement or maintenance, cost and payment for the required improvements. The road district is not obligated to provide additional dust control, paving or other improvements, unless they are included in the Road Use Agreement.
6. This section applies to Solar Energy Systems which require a Special Use Permit
 - a. Coordination with Local Fire Department
 - i. The Applicant, Owner or Operator shall submit to the local fire department a copy of the site plan.
 - ii. Upon request by the local fire department, the Owner or Operator shall cooperate with the local fire department to develop the fire department's emergency response plan.
 - iii. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.
 - b. Materials Handling, Storage and Disposal
 - i. All solid waste as defined by Illinois State Law related to the construction, operation and maintenance of the system shall be removed from the site promptly and disposed of in accordance with all applicable federal, state and local laws.
 - ii. All hazardous materials related to the construction, operation and maintenance of the system shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

- c. Solar Energy Systems that require a special use permit shall present a Decommissioning Plan as part of the application.
 - i. Provisions for the removal of above-ground structures, debris and underground foundations and cables.
 - ii. Provisions for the restoration of the soil and vegetation;
 - iii. An estimate of the decommissioning costs certified by a Professional Engineer or other qualified professional reasonably acceptable to the County, which shall be updated and submitted to the Marshall County Zoning Administrator every (4) four years;
 - iv. Financial Assurance, obtained by the Owner or Operator at a specified date following commencement of operations, for the purpose of adequately performing decommissioning, in an amount equal to the Professional Engineer's or other qualified professional reasonably acceptable to the County, certified estimate of the decommissioning costs.
 - v. Identification of and procedures for County access to Financial Assurances.
 - vi. A provision that the terms of Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs; and
 - vii. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning.
 - viii. A financial assurance instrument approved by the County States Attorney shall be executed prior to construction.

CHAPTER 5 NONCONFORMITIES

SECTION:

- 5.1 Nonconforming Lots of Record
- 5.2 Nonconforming Buildings and Structure
- 5.3 Nonconforming Uses
- 5.4 Existing Special Uses Exempt
- 5.5 Existing Off-Street Parking and Loading

5.1 NONCONFORMING LOTS OF RECORD:

Any lot of record, as defined in this Ordinance, on the effective date hereof which does not comply with the requirements of the district in which it is located as to lot area and width may be used for the erection of a building intended for a use permitted in the district in which the lot is located; provided, that such building will comply with all setback and other applicable requirements of this Ordinance.

5.2 NONCONFORMING BUILDINGS AND STRUCTURES:

A lawfully existing nonconforming building or structure which does not contain any nonconforming use, but which does not comply with the applicable lot size requirements or building bulk regulations in the district in which it is located may be continued so long as it remains otherwise lawful. Nonconforming buildings and structures shall be subject to the following regulations:

- A. **Enlargement, Repair, and Alteration:** A nonconforming building or structure may be enlarged, maintained, repaired or structurally altered. No such enlargement, maintenance, repair or structural alteration shall create either any additional nonconformity or increase the degree of the existing nonconformity of all or any part of such building or structure. Damaged or destroyed buildings or structures shall be subject to the restrictions contained in paragraph B of this section.
- B. **Damage or Destruction:** In the event that a nonconforming building or structure is damaged or destroyed by any means, such building or structure may be restored or reconstructed, provided such restoration is on the existing footing of such buildings or structures. If such restoration or reconstruction is not on the existing footing, then such building shall not be restored unless it shall thereafter conform to the regulations for the district in which it is located.
- C. **Moving:** No nonconforming building or structure shall be moved in whole or in part for any distance whatever to any location on the same or any other lot unless the

entire building or structure shall then conform to the regulations for the district in which it is located after being moved.

- D. A nonconforming mobile home may not be replaced unless the owner obtains the necessary special use permit.
- E. The continued use of a mobile home outside a Mobile Home Park as a nonconforming building is granted only to the owner of the property on the effective date of this ordinance. If the mobile home is purchased with the property from the original property owner, the new owner shall obtain the appropriate special use permit within 90 days, or they shall remove the mobile home.
- F. Nonconforming mobile homes which are not occupied for more than 90 days shall be removed from the property within 90 days (180 days from last occupation).
- G. Mobile home, both nonconforming or granted by special use, shall comply with this section only. Sections “5.3 Nonconforming Uses” and “5.4 Existing Special Uses Exempt” do not apply to mobile homes.

5.3 NONCONFORMING USES:

When the applicable district regulations of this Ordinance do not allow as a permitted use either (a) a lawfully existing use of part or all of a building or other structure, or (b) a lawfully existing use of land not involving a building or structure, such existing use may be continued so long as otherwise lawful.

A. Ordinary Repair and Maintenance:

- 1. Work may be done on ordinary maintenance and repairs, or on repair and replacement of nonbearing walls, fixtures, wiring or plumbing; provided, however, that this paragraph 1 shall not be deemed to authorize any violation of paragraphs B through H of this Section.
- 2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure (other than a damaged or destroyed building or other structure subject to the provisions of paragraph E of this section) in accordance with the order of a public official who is charged with protecting the public safety and who declares such building or other structure to be unsafe and orders its restoration to a safe condition.

B. Structural Alteration: No structural alteration shall be made unless the entire building or other structure and the use thereof shall thereafter conform to the

regulations of the district in which it is located.

- C. Extension: A nonconforming use shall not be extended, expanded, enlarged or increased in intensity. Such prohibited activities shall include, without being limited to:
1. Extension of a nonconforming use to any building or other structure or land area other than one occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment hereto that causes such use to become nonconforming).
 2. Extension of a nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment hereto that causes such use to become nonconforming); provided, however, that a nonconforming use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.
 3. Operation of a nonconforming use in such manner as to conflict with, or to further conflict with, if already conflicting on the effective date of this Ordinance (or on the effective date of a subsequent amendment hereto that results in such use becoming nonconforming), any performance standards established for the district in which the use is located.
- D. Enlargement: No building or other structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, on any lot that is the site of any nonconforming use, no building, or other structure shall be constructed, enlarged or added to in any manner unless, after such construction, enlargement or additions, all buildings, other structures and uses located on such lot shall thereafter conform to the regulations of the district in which it is located.
- E. Damage or Destruction: In the event that any building or other structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to such an extent that the cost of restoration to the condition in which it was before such damage or destruction exceeds fifty percent (50%) of the current replacement cost of the entire building or other structure, exclusive of foundations, such building or other shall not be restored unless such building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located. Moreover, even if such damage is fifty percent (50%) or less, no repairs or restoration shall be made unless restoration is actually begun within one year after

the date of such partial destruction and is diligently pursued to completion.

- F. Moving: No building or other structure that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever, to any other lot unless the entire building or other structure and the use thereof shall thereafter conform to the regulations of the district in which it is located after being so moved. Moreover, no nonconforming use of land shall be moved, in whole or in part for any distance whatever, to any other location on the same or any other lot unless such use shall thereafter conform to the regulations of the district in which it is located after being moved.
- G. Change: A nonconforming use of a building or other structure, all or substantially all of which was originally designed or intended for a use which is permitted in the district in which it is located, shall not be changed to any use other than a use permitted in the district in which the land is located. When a nonconforming use has been changed to a permitted use, it shall not thereafter be changed back to a nonconforming use.
- H. Discontinuance:
 - 1. Discontinuance of Nonconforming Use of Land: In the event that operation of a nonconforming use of land is discontinued for a period of twelve (12) months, such nonconforming use shall not thereafter be reestablished, and any subsequent use or occupancy of such land shall conform to the regulations of the district in which it is located. Intent to resume active operation shall not affect the foregoing restriction.
 - 2. Discontinuance of Nonconforming Use of Building or Structure: In the event that operation of a nonconforming use of all or part of a building or structure is discontinued for a period of twelve (12) months, such nonconforming use shall not thereafter be re-established, and any subsequent use or occupancy of such building or other structure shall conform to the regulations of the district in which it is located.
- I. Nonconforming Accessory Uses: No nonconforming accessory use shall continue after the principal use to which it is necessary has been abolished.

5.4 EXISTING SPECIAL USES EXEMPT:

Where a use exists on the date that this Ordinance becomes effective and is permitted by this Ordinance only on a special use in the district in which it is located, such use shall not be deemed a nonconforming use, but shall, without further action, be deemed a lawful special use in such district. No such lawful special use shall be substantially expanded unless a

supplementary special use permit is secured in accordance with the provisions of this Ordinance.

5.5 EXISTING OFF-STREET PARKING AND LOADING

No building or structure lawfully erected or use lawfully established prior to the effective date of this Ordinance shall be required to provide such additional parking or loading facilities unless and until the aggregate increase in units of measurement existing upon the effective date of this Ordinance, in which event parking or loading facilities as required herein shall be provided for the total increase.

CHAPTER 6
PERMITS, PROCEDURES AND FEES

SECTION:

- 6.1 Building Permits and Occupancy
- 6.2 Appeals
- 6.3 Variances
- 6.4 Amendments
- 6.5 Special Uses
- 6.6 Fees

6.1 BUILDING PERMITS AND OCCUPANCY:

- A. Building Permits: Construction of any building, structure or addition thereto shall not be commenced; nor shall any use of land not involving a building or structure be commenced; preliminary work shall not be done with respect to any use of land; and no permits pertaining to the use of land or buildings shall be issued, by any officer, employee, department, board or bureau of the County, unless a Building Permit has been obtained from the office of the Zoning Administrator. Any permit issued in conflict with the provisions of the Ordinance shall be null and void.
 - 1. Application for Building Permit: An application for a Building Permit shall be filed with the Zoning Administrator in such form and in such manner as he may require. In agricultural districts the only requirement shall be a written notification and shall be submitted to the Zoning Administrator for a building or structure used or to be used for agricultural purposes as defined herein, and need only show the building setback lines in relation to abutting public streets or highways and neighboring property lines.
 - 2. Plats and Site Plans: Every application for a Building Permit shall be accompanied by:
 - a. A plat, in duplicate, of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, showing the actual dimensions of the piece or parcel, lot, lots, block or blocks or parts or portions thereof, according to the registered or recorded plat of such land; and
 - b. A site plan, in duplicate, in such form as may, from time to time, be prescribed by the Zoning Administrator showing the ground area, height, and bulk of the building or structure, the building lines in relation to lot lines, the use to be made of the building or structure or

land, and such other information as may be required by the Zoning Administrator for the proper enforcement of this Ordinance.

- c. The fee required by this Ordinance
- d. One copy of both the plat and the site plan shall be attached to the application for a Building Permit when it is submitted to the office of the Zoning Administrator and shall be retained by the Zoning Administrator as a public record. The required plat and site plan may be combined in one document; provided, that in the opinion of the Zoning Administrator, the signed document clearly shows all the required information.

3. Issuance of Building Permit:

- a. Upon receipt of a completed application for a building permit and the required fee, the Zoning Administrator shall review the application to determine whether the proposed use, building or structure meets the requirements of this Ordinance and such other ordinances and statutes as may be applicable. If the application and accompanying plans meet the requirements of this ordinance and all other applicable statutes and ordinances, then a Building Permit shall be issued.
- b. When the proposed use, building or structure as set forth in the application for a Building Permit does not comply with the requirements of this Ordinance, or any other applicable ordinance or statute, the Zoning Administrator shall deny the application, and shall notify the applicant in writing of the reasons for the denial.
- c. If a proposed use, building or structure otherwise meets the requirements of this Ordinance, but fails to comply with the requirements of another applicable ordinance or statute, or if the approval of another administrative agency is required for the proposed use, building or structure, and such approval has not been obtained, the Zoning Administrator shall deny the application for a Building Permit, but shall indicate in writing that the denial is based upon the necessity of compliance with the other related requirements.

4. Duration of Building Permit: When the Zoning Administrator has issued a Building Permit, such permit shall become null and void six (6) months after the date thereof unless erection or alteration of a building or structure is started, or the use is commenced, within such period. Building permits shall expire within 18 months of the date of issuance unless an extension is

granted.

- B. Occupancy: No building or structure shall be occupied as a dwelling until plumbing and electricity are functioning at a level to meet applicable standards.

6.2 APPEALS:

- A. Persons Who May Appeal: An appeal may be taken to the Zoning Board by any person aggrieved, or by an officer, department, board or bureau of Marshall County affected by any order, requirement, decision or determination of the Zoning Administrator relative to the interpretation of this Ordinance.
- B. Time for Appeals: An appeal from any order, requirement, decision or determination of the Zoning Administration shall be made by filing a written notice of appeal with the Zoning Administrator within 35 days of the date of the order, requirement, decision, or determination appealed from. The notice of appeal shall state the grounds for the appeal. Upon receipt of a notice of appeal, the Zoning Administrator shall forthwith transmit to the Zoning Board all of the papers constituting the record upon which the decision being appealed was based.
- C. Procedure for Appeals:
 - 1. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board, after the notice of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.
 - 2. The Zoning Board shall give the parties at least 15 days written notice of the time and place for the hearing and shall render a written decision on the appeal within a reasonable time following the hearing.
- D. Decision of Appeals: The Zoning Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers to the officer from whom the appeal is taken, and may issue or direct the issuance of a permit. The concurring vote of four members of the board shall be necessary to reverse any order, decision or determination of the Zoning Administrator under this ordinance.
- E. Record of Appeals: The Zoning Administrator shall maintain complete records of all

actions of the Zoning Board with respect to appeals, and shall keep the Marshall County Board informed on a current basis of the disposition of each case.

6.3 VARIANCES:

- A. Authorization: The Zoning Board may vary the regulations imposed by this Ordinance in harmony with their general purpose and intent, but only in the specific instances hereinafter set forth. In order to vary the zoning regulations, the Zoning Board shall make a finding of fact based upon the standards hereinafter prescribed, that there are practical difficulties or particular hardships involved in the application of the strict letter of the regulations of this Ordinance.
- B. Application for Variance: Application for a variance shall be filed with the office of the Zoning Administrator who shall forward a copy of same to the Zoning Board without delay. The application shall contain such information as the Zoning Board may from time to time require.
- C. Public Hearing and Notice Thereof:
 - 1. The Zoning Board shall conduct a public hearing on each application for a variance from the provision of the Ordinance. At least 15 days prior to the hearing, notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the township where the property is located. If no newspaper is published in such township, then the notice shall be published in a newspaper published in the county having a general circulation in the county and the township where the property is located. The notice shall contain:
 - a. The legal description and street address of the property for which the variance is sought, and if no street address exists, then by locating the property with reference to a well-known landmark, road or intersection.
 - b. Whether or not the applicant is acting for himself or as an agent or representative of a principal, and if so, stating the name and address of the principal.
 - c. If the applicant is a corporation, the names and addresses of all officers and directors, and of all stockholders or shareholders owning an interest in excess of 20% of the outstanding stock in the corporation.
 - d. Whether the applicant, or the principal if the applicant is an agent or representative, is a business or entity doing business under an assumed name, and if so, the names and addresses of the true owners of the business or entity.
 - e. If the applicant is a partnership, joint venture, syndicate, or unincorporated

association, and if so the names and address of all partners, members of the joint venture, syndicate or unincorporated association.

f. A description of what the proposed variance consists and the relief requested.

2. In addition to the published notice, a certified letter shall be sent to all adjoining landowners not less than 15 days prior to the hearing notifying them of the date, time and place of the hearing and a description of the variance requested.

D. Standards for Variances:

1. The Zoning Board shall not vary the regulations of this Ordinance, as authorized in paragraph A hereof, unless it shall make findings based upon the evidence presented to it in each specific case that:

- a. The plight of the owner is due to unique circumstances.
- b. The variance, if granted, will not alter the essential character of the locality.

2. In determining whether the strict application of the Zoning Ordinance creates practical difficulties for, or imposes a particular hardship on, an applicant for a variance, the Zoning Board shall consider the extent to which the following facts have been established by the evidence:

- a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- b. The conditions upon which the petition for a variance are based unique and would not be applicable, generally, to other property within the same zoning classification;
- c. The purpose of the variance is not based exclusively upon a desire to obtain a higher financial return on the property;
- d. The alleged difficulty or hardship has not been created by any person presently having an interest in the property;
- e. The granting of the variance will not be materially detrimental to the public welfare or injurious to other property or improvements in the

neighborhood in which the property is located; and

f. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

3. The Zoning Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards set out in this paragraph, to reduce or minimize the injurious effect of such variance upon other property in the neighborhood, and better to carry out the general intent of this Ordinance.

E. Authorized Variances: Variances from the regulations of this Ordinance may be granted only in the following instances, and in no others:

1. To permit any setback or yard less than the setback or yard required by this Ordinance;
2. To permit any building or structure to exceed the height limitations imposed by this Ordinance, but not more than twenty five percent (25%) of the allowable height;
3. To permit the use of a lot for a use otherwise prohibited solely because of insufficient area of the lot, but in no event shall the area of the lot be less than eighty percent (80%) of the required lot area;
4. To permit the same off-street parking facility to qualify as required facilities for two (2) or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
5. To reduce the applicable off-street parking by not more than one parking space or twenty percent (20%) of the number of spaces required, whichever number is greater; and
6. To increase by not more than twenty five percent (25%) the maximum distance that required parking spaces may be located from the use served. To exceed any of the authorized variances allowed under this paragraph, when a lot of record or a zoning lot, vacant or legally used on the effective date of this Ordinance is, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance under threat

of an eminent domain proceeding, reduced in size so that the remainder of said lot of record or zoning lot or structure on said lot does not conform with one or more of the regulations of the district in which said lot of record or zoning lot or structure is located.

- F: Action by the Zoning Board:
The concurring vote of three members of the Board present shall be necessary to grant a variance.

6.4 AMENDMENTS:

- A. Authorization: The regulations imposed and the districts created under the authority of this Ordinance may be amended from time to time by ordinance, but no such amendment shall be made without a public hearing before the Zoning Board.
- B. Initiation of Amendments: Amendments may be proposed by the County Board, or any member thereof, the Zoning Committee, the Zoning Board, the Zoning Administrator, or any other person or persons with a sufficient interest in the matter.
- C. Applications for Amendments: An application for a text amendment or a map amendment shall be filed with the Zoning Administrator.
1. An application for a map amendment shall be filed upon such form and accompanied by such information as shall be required by the Zoning Administrator and the Zoning Board. At a minimum, the applicant shall provide information sufficient to enable the Zoning Administrator to perform the duties required by this ordinance. If the applicant is not the owner of the property, the application shall be signed by the owner, and the applicant shall provide evidence that he possesses an interest in the property sufficient to entitle him to seek a map amendment for the property. The Zoning Administrator may require the applicant to furnish a copy of any option or contract to purchase the property as evidence of the applicant's interest in the property. An application shall not be deemed to have been filed until all information required by this ordinance or the Zoning Administrator has been furnished.
 2. An application for a text amendment shall be filed upon such form and accompanied by such information as shall be required by the Zoning Administrator and the Zoning Board. The application shall contain the proposed language of the text amendment and a brief description concerning the purpose of the amendment.
- D. Processing of Applications for Amendments: Upon receipt of an application for an amendment to the Zoning Ordinance, the Zoning Administrator shall transmit a copy

to the Zoning Board. The County Zoning Administrator will review the Application for Amendment or Application for Special Use Permit for completeness and his review may include review by the Marshall County Zoning Committee.

E. Public Hearings on Amendments:

1. The Zoning Board shall hold a public hearing on each application for an amendment to this Ordinance. Hearings on text amendments shall be held in either the Zoning office or the Marshall County Courthouse at the discretion of the Chairman, but may be held at a different location if in the judgment of the Chairman either of those facilities would be inadequate.

2. Hearings on map amendments shall be held in the Marshall County Courthouse or other location within the county with adequate facilities for such hearings. If the owner of any property affected by the proposed map amendment so requests in writing, the hearing shall be held in the township wherein the property is located.

F. Notice of Public Hearings:

The Zoning Board shall cause notice of the date, time and place of the public to be published in a newspaper of general circulation published in the county at least 15 days prior to the date of the hearing.

1. The notice of hearing for a text amendment shall state which section or sections of the ordinance to be amended and shall give a brief description of the proposed amendment.

2. The notice of hearing for a map amendment shall contain the following:

a. The legal description and street address of the property for which the amendment is sought, and if there is no street address, and then by locating the property with reference to a well-known landmark, road or intersection.

b. Whether or not the applicant is acting for himself or as an agent or representative of a principal, and if so, the name and address of principal.

c. If the applicant is a corporation, the names and addresses of all officers and directors, and of all stockholders or shareholders owning an interest in excess of 20% of the outstanding stock in the corporation.

d. Whether the applicant, or the principal, if the applicant is an agent or representative, is a business or entity doing business under an assumed name, and if

so, the names and addresses of the true owners of the business or entity.

e. If the applicant is a partnership, joint venture, syndicate, or unincorporated association, and if so, the names and addresses of all partners, members of the joint venture, syndicate or unincorporated association.

f. A description of the existing zoning classification for each parcel sought to be re-zoned, and the proposed new zoning classification.

G. Report by The Zoning Board: After the public hearing has been held, the Zoning Board shall file a report containing its recommendations regarding the proposed amendment with the County Clerk for delivery to the County Board. The recommendation for the County Board shall be voted on by the Zoning Board as a recommendation to adopt the amendment, with conditions if applicable. In the event that the recommendation fails to pass, the record of the public hearing, including the unsuccessful vote shall be forwarded to the County Board for Action.

H. Action by the County Board:

1. The County Board may:

- a. Adopt the proposed amendment in whole or in part, with or without modification or amendment;
- b. Reject the proposed amendment; or
- c. Remand the proposed amendment to the Zoning Board for further study, report and/or public hearings.

2. Action by the County Board on a proposed amendment shall be by a simple majority of the elected county board members, unless paragraph 3 hereof requires a greater majority.

3. When Extraordinary Majority Required

a. Text Amendments: A proposed text amendment shall not be passed without the favorable vote of three-fourths of the members of the county board if a written protest against the proposed amendment has been signed by 5% of the landowners of the county and filed with the County Clerk.

b. Map Amendments:

1. A proposed map amendment shall not be passed without the

favorable vote of three-fourths of the members of the county board if a written protest against the proposed amendment is either signed by the owner or owners of at least 20% of the land to be re-zoned, or is 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 re-zoned.

2. A proposed map amendment shall not be passed without the favorable vote of three-fourths of the members of the county board if a written protest against the proposed amendment is made by a zoned municipality located within one and one-half miles of the boundaries of the property to be re-zoned, and the municipality files a resolution or ordinance protesting the map amendment with the County Clerk.

3. Any written protest shall be filed with the County Clerk and a copy shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney by certified mail.

6.5 SPECIAL USES:

A. Authorization and Public Hearing.

1. Special uses which are listed as such for a zoning district may be authorized by the County Board. No application for a special use permit shall be acted upon until a public hearing on the proposed special use has been conducted by the Zoning Board.

2. The Zoning Board shall conduct a public hearing on all applications for a special use. At least 15 days prior to the hearing, notice of the date, time and place of the hearing shall be published in a newspaper of general circulation in the township where the property is located. If no newspaper is published in such township, then the notice shall be published in a newspaper having a general circulation in the county. The notice shall contain:

a. The legal description and street address of the property for which the special use is sought, and if there is no street address, then by locating the property with reference to a well-known landmark, road or intersection.

b. Whether or not the applicant is acting for himself or as an agent or representative of a principal, and if so, the name and address of the principal.

c. If the applicant is a corporation, the names and addresses of all officers and directors, and of all stockholders or shareholders owning an interest in excess of 20%

of the outstanding stock in the corporation.

d. Whether the applicant, or the principal, if the applicant is an agent or representative, is a business or entity doing business under an assumed name, and if so, the names and addresses of the true owners of the business or entity.

e. If the applicant is a partnership, joint venture, syndicate, or unincorporated association, and if so, the names and addresses of all partners, members of the joint venture, syndicate or unincorporated association.

f. A description of the proposed special use.

3. Written notice of the hearing shall also be given to any municipality whose boundaries are within 1 1/2 miles of any part of the property proposed as a special use, and to the owner or owners of any land adjacent to or immediately across any street, alley or public right of way from the property proposed a special use.

B. Application for Special Use Permit:

An application for a special use permit shall be filed upon such form and accompanied by such information as shall be required by the Zoning Administrator and Zoning Board. At a minimum, the applicant shall provide information sufficient to enable the Zoning Administrator to perform the duties required by this ordinance. If the applicant is not the owner of the property, the applications shall be signed by the owner and the applicant shall provide evidence that he possesses an interest in the property sufficient to entitle him to seek a special use for the property. The Zoning Administrator may require the applicant to furnish a copy of any option or contract to purchase the property as evidence of an interest in the property. An application shall not be deemed to have been filed until all information required by this ordinance or the Zoning Administrator has been furnished.

C. Standards: No special use shall be recommended by the Zoning Board unless said Board shall find:

1. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair values within the neighborhood.
3. That the establishment of the special use will not impede the normal and

orderly development and improvement of surrounding property for uses permitted in the district.

4. That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
6. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

D. Decision and Conditions:

The Zoning Board shall make written findings of fact and recommendations to the County Board regarding the suitability of the property for the proposed special use, whether the proposed use meets the standards set forth in this ordinance, and any other factors which may affect whether the proposed special use should be granted. The recommendation for the County Board shall be voted on by the Zoning Board as a recommendation to grant the special use, with conditions if applicable. In the event that the recommendation fails to pass, the record of the public hearing, including the unsuccessful vote shall be forwarded to the County Board for Action. The Zoning Board may recommend and the County Board may provide such conditions or restrictions upon the construction, location and operation of a special use, but not limited to provisions for the protection of adjacent property, the expiration of said special use after a specified period of time, off-street parking and loading, as shall be deemed necessary to secure the general objective of this amended ordinance and to reduce injury to the value of property in the neighborhood.

E. Action by the County Board:

1. The County Board may grant or deny the application for a special use permit in whole or in part, with or without modification, or may remand the application to the Zoning Board for further study, report and/or public hearings.
2. Action by the County Board on an application for a special use permit shall be by a majority of the members of the County Board present and voting.

F. Duration of Special Use Permit:

1. A special use permit shall cease to be valid six (6) months after approval, except Wind Energy Conversion Systems (WECS) which shall be 12 months

from the date of approval, unless the erection of a building or structure is started with or the use is commenced within such period.

If Applicant can provide evidence of reasonable cause, the Zoning Administrator may grant up to two (2) six-month extensions, if necessary, after review by the Zoning Committee.

2. Mobile home special use permits will be valid for one year. The special use permits for mobile homes may be renewed. Application for renewal of special use permits for mobile homes must be received by the Zoning Office by November 15th of each year. Applications for renewal of initial mobile home special use permits granted after July 1st will not be required until November 15th of the subsequent year. Review and renewal of the mobile home special use permits will be completed in January of each year. If the permit is not renewed, the mobile home owner must remove the mobile home from the property within 90 days.
3. Mobile homes located in a Mobile Home Park do not require a special use permit, but do require a building permit.
4. The special use permit for a mobile home can be granted only to the owner of the property on which the mobile home will be placed.

6.6 FEES

- A. To partially defray expenses of administering this ordinance, the following fees will be charged and collected by the Zoning Administrator who will account for the same to the County of Marshall.

Permits with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes shall be issued FREE OF ANY CHARGE.

- B. Any application for an amendment, special use or variance which is filed by, in behalf of, or against the owner or owners of the property affected shall be accompanied by the following fees:

Variance	\$250.00
Special Use Permit or Map Amendment (rezoning)	\$50.00 per acre
Minimum	\$250.00
Maximum	\$5,000.00
Text Amendment	\$250.00
Towers	\$250.00 per tower
Appeal	\$250.00

In addition to the above fees, the applicant shall be required to pay any fees for the attendance of a court reporter, transcription of the testimony, and consultation of experts necessary to conduct any hearing.

C. Building permits must be obtained from the Zoning Administrator.

Building Permit Fees shall apply as follows:

Single family/two family dwelling	\$.10/sq ft	Min. of \$150.00
Single family/two family addition/alteration	\$.10/sq ft	Min. of \$ 75.00
Solar Energy Systems (when permit required)	\$.0.005/sq ft	Min. of \$100.00
Not-for-Profits includes addition/alteration	\$.10/sq ft	Max. of \$250.00
Commercial/Industrial/Multiple Family (including addition/alteration)	\$.10/sq ft	Min. of \$250.00
Accessory building (garage, shed, pole barn)	\$.05/sq ft	Min. of \$ 50.00
Towers includes addition/alteration		
Towers up to 35 ‘	No permit required	
Towers over 35’ up to 120’	\$50.00	
Towers over 120’ up to 140’	\$250.00	
Towers over 140’ up to 160’	\$500.00	
Towers over 160’ up to 180’	\$1,000.00	
Towers over 180’ up to 200’	\$1,500.00	
Towers over 200’	\$2,000.00	

When construction starts before a building permit is issued, the fee will be increased by fifty percent (50%).

D. No base fee shall be refunded unless written notice of withdrawal of the application is received by the Zoning Administrator prior to the publication deadline.

CHAPTER 7 AGRICULTURAL DISTRICT

SECTION:

- 7.1 Purpose
- 7.2 Permitted Uses
- 7.3 Special Uses
- 7.4 Building Setback Lines
- 7.5 Farm Consolidation
- 7.6 Signs
- 7.7 Maximum Lot Coverage

7.1 *PURPOSE*

The long-range goal for agricultural land use in the County is to preserve the most valuable of all natural resources, that of fertile land for agricultural pursuits and to protect the land best suited for farming from premature urbanization. The Agricultural District regulations are, therefore, designed to regulate the use of land and structures within the areas of the County where soil and topographic conditions are best adapted to the pursuit of agriculture and utilization of other natural land resources; to prevent or minimize conflicts between agricultural and nonagricultural land uses, and to provide for low density residential development in areas where such development is compatible with agricultural uses. It is essential that scattered, indiscriminate urban development within areas best suited for agriculture be precluded and that orderly urban development be facilitated. It is hereby declared the legislative intent and purpose of this Article is that land in the County which is productive should remain in productivity for the agricultural purposes until such time as the natural growth of municipalities precludes preservation thereof.

7.2 *PERMITTED USES*

The following uses are permitted:

Agriculture: an area which is used specifically for the purpose of producing crops, livestock, poultry, forest, dairy products or horticultural (including native) plants, ethyl alcohol distillation of farm products for one's own use. Structures and land uses for the pursuit of agriculture are not subject to the regulations of this Ordinance, except farm structures and uses established after the effective date of this Ordinance shall conform to the applicable setbacks as herein established.

Agricultural sales, storage and service of agricultural products.

Animal feed: storage, preparation, grinding and mixing, wholesale and retail.

Areas of natural, historical/cultural, geological, educational, or of research significance.

Bed and Breakfast.

Blacksmith and welding shop.

Commercial agricultural implement and machinery sales, service and repair.

Commercial grain elevators and storage.

Conversion of an existing single-family farm residence into a two-family dwelling, when at least one dwelling unit will continue to be occupied by a person and the family thereof, owning, operating or employed full time in farming operations on the premises.

Educational Institutions.

Greenhouses, wholesale and retail.

Home occupations.

Garden Centers.

Governmental structures.

Milk depots.

Sales yards, wholesale or retail for agricultural products, including but not necessarily limited to fruits, vegetables, flowers, plants, etc.

Single-family dwellings - CROPLAND: a minimum lot size of forty (40) acres shall be required if the County considers it to be cropland.

Single-family dwellings - NON-CROPLAND: new construction of a single family dwelling located on a tract of land having an area not less than three (3) acres with a width of at least one hundred fifty feet (150') if not considered by the county to be cropland in its present state.

Solar Energy System attached to a building.

Stand-alone solar energy system owned by the landowner designed to generate energy that will be consumed on the property.

Towers up to 100 feet in height.

7.3 SPECIAL USES

The following uses may be allowed by special use permit:

Airports or aircraft landing fields.

Animal hospitals, kennels or pounds.

Asphalt plant and other associated uses

Cemeteries, including crematories and mausoleums.

Churches.

Commercial, concentrated, feeding of poultry and livestock.

Distillation of ethyl alcohol from farm products on a commercial basis, wholesale or retail.

Fertilizer sales, including bulk storage and mixing; also anhydrous ammonia equipment, containers and storage facilities and liquefied petroleum.

Filling holes, pits or lowlands with noncombustible material free from refuse and food wastes.

Food stores, grocery stores, meat markets, fish markets, bakeries, delicatessens and convenience stores.

Fur bearing animal farms.

Golf Courses: including commercially operated driving ranges, or miniature golf courses.

Gun clubs.

Livestock depots, sales yards, and auction barns.

Milk processing and distribution, including pasteurizing and manufacturing of ice cream and cheese.

Mining and handling of aggregates and any activity involving the excavation, extraction, quarrying, mining, crushing, washing, processing or stockpiling of raw materials from the earth, as well as the recycling of broken concrete or asphalt.

Mobile Homes.

Oil or gas well drilling.

Public service sewage treatment plants.

Public utility and public service use, provided such use is or will be located more than two hundred feet (200') from the boundary of a residence district; electric substations and booster stations, fire stations, police stations, public art galleries and museums, public libraries, telephone stations, antenna towers and other outdoor equipment essential to the operation of the exchange in the interest of public convenience, bus terminals, other transportation terminal facilities, pumping stations, water filtration plants, water reservoirs, well head stations, well separators, gas regulator stations and similar aboveground facilities customarily used for the distribution, transmission or storage of natural gas as part of the operation of a public utility. Natural gas equipment and other installations may be in completely enclosed buildings or in the open, but along with electrical substations and booster stations must be completely enclosed behind a two inch (2") or less mesh chain-link fence or equal not less than six feet (6') in height.

Recreation areas or facilities, campgrounds, camps, nature and forest preserves.

Railroad right-of-way and trackage, but not including classification yards, terminal facilities, piggyback facilities or maintenance facilities.

Ready-mix concrete plant and other associated uses

Single family residential use on tract considered cropland by the County on less than forty (40) acres. The tract must have an area not less than three (3) acres with a width of at least one hundred fifty feet (150') if considered by the County as cropland in its present state

Sludge, storage or use of, digested or otherwise

Stand-alone solar energy system of any ownership and size.

Storage rental unit building.

Target shooting range (outdoor).

Towers exceeding 100 feet in height

Truck parking areas.

Wind Energy Conversion Systems (WECS)

7.4 *BUILDING SETBACK LINE*

Every building hereafter erected or enlarged shall provide and maintain a setback from the public street in accordance with the following requirements:

- A. Fifty feet (50') from the right-of-way line of any Federal or State highway.
- B. Eighty feet (80') from the center line of a County highway.
- C. Sixty feet (60') from the center line of any other street or road.
- D. Side yard setbacks for all residences will be a minimum of one hundred feet (100') from property line and twenty five feet (25') for all other structures.

7.5 *FARM CONSOLIDATION*

Single-family farm dwellings existing at the time of the effective date of this Ordinance remaining after farm consolidation, may be separated from the farm lot; provided, however, that the parcel created shall be not less than 43,560 square feet (one acre) in size, and a minimum width of one hundred fifty feet (150').

7.6 *SIGNS*

Signs shall be allowed with the following limitations:

- A. Not more than two (2) non-illuminated signs on any tract of land, each one not larger than forty eight (48) square feet in area, pertaining only to the sale, lease or identification of the premises upon which they are located or the sale of farm products produced thereon.
- B. Directional signs not larger than forty eight (48) square feet in area giving highway route information or directing motorists to a location, or point of interest not more than fifty (50) miles from the location of the sign.
- C. Temporary signs not exceeding four (4) square feet in area pertaining to farm products produced on the premises where said sign is located. However, seasonal

signs not exceeding this size, identifying crops being grown, shall not require Building Permits, provided such signs are removed before December 31 of the crop year.

- D. Signs shall be not less than one hundred feet (100') from the point of intersection of the center lines of any two (2) or more highways.
- E. Signs in excess of thirty two (32) square feet in area, and not exceeding forty eight (48) square feet in area shall be set back at least ten feet (10') from the right-of-way line.

7.7 MAXIMUM LOT COVERAGE

No more than ten percent (10%) of the area of the zoning lot may be occupied by buildings and structures, including accessory building.

CHAPTER 8 RESIDENCE DISTRICTS

SECTION:

- 8.1 R-1 Rural Residence Districts
- 8.2 R-2 Single Family Residence District
- 8.3 R-3 General Residence District

8.01 PURPOSE:

The regulations for residence districts are designed to conserve existing residential areas and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated and regulations imposed for the various kinds of residential developments in order that the County and other governing bodies can plan ahead for services, future educational institutions, parks, streets and utilities.

8.02 PROVISIONS FOR RESIDENCE DISTRICT; SIGNS:

Unless otherwise provided in the regulations of this Ordinance, the following provisions shall apply to all residence districts:

- A. Maximum number of signs on any lot is one (1), except on corner lot where two (2) signs will be allowed, with one facing each street.
- B. Maximum size of a sign is sixteen (16) square feet, except for construction signs which may have a maximum size of twenty-five (25) square feet.
- C. Maximum height of a sign above curb level is ten (10) feet.
- D. No sign shall project beyond the property line onto the public right of way.
- E. No sign shall have flashing lights or be illuminated (except nameplate sign may be back-lit).
- F. Types of allowed signs:
 - 1. Signs pertaining to the sale or lease of the premises.
 - 2. Signs in connection with the construction or remodeling of a building.
 - 3. Political signs, temporary in nature.
 - 4. Others as allowed in specified zoning districts.

8.1 R-1 RURAL RESIDENCE DISTRICT

8.1-1 PURPOSE:

The Rural Residence District is established for low-density occupancy. It is designed for areas with few or no public improvements and where general conditions are not conducive to other than low-density development. Lot sizes are larger than those required in the R-2 Single-Family Residence District.

8.1-2 PERMITTED USES:

The following uses are permitted:

Agriculture, as defined in this Ordinance.

Bed and Breakfast.

Single-family detached dwellings.

Churches, temples or synagogues on a lot not less than two (2) acres in area.

Community center.

Educational Institutions.

Home occupation.

Hospitals on a lot not less than ten (10) acres in area.

Parks, forest preserves, or nature preserves, and recreational areas, public.

Private stables for use by the residents of the zoning lot and their guests on a lot not less than three (3) acres in area; provided, that no more than three (3) horses or ponies are maintained. No horse or pony and no corral, ring or enclosure for containing the animals shall be kept, located or maintained closer than thirty five feet (35') from any lot line.

Publically owned recreation areas or facilities, campgrounds, camps, nature and forest preserves.

Solar Energy System attached to a building.

Stand-alone solar energy system owned by the landowner designed to generate energy that will be consumed on the property.

Temporary buildings for construction purposes for a period not to exceed such construction.

Tower up to 60 feet in height.

Accessory building or use incidental to the foregoing principal use, including private garages either attached or detached; a nonpaying guest home or rooms for guests within an "accessory building", provided such facilities are used for the occasional housing of guests of the occupants of the principal building but not as rental units, and not for permanent-occupancy, a shed or building for domestic storage; private greenhouse; private boat landing; quarters comprising part of an accessory building and solely for occupancy by a household employee (and his or her family) of the occupants of the principal dwelling.

8.1-3 SPECIAL USES:

The following uses may be allowed by special use permit in accordance with Section 6.5 of the Ordinance.

Cemeteries, including crematories and mausoleums.

Golf courses, including commercially operated driving ranges, or miniature golf courses.

Institutions for the aged and for children.

Philanthropic institutions.

Privately owned recreation areas or facilities, campgrounds, camps, nature and forest preserves.

Public service uses:

- A. Electric and telephone substations and distribution centers.
- B. Gas regulator stations.
- C. Police and fire stations.
- D. Pumping stations.
- E. Other governmental uses.

Railroad rights-of-way and trackage but not including classification yards, terminal facilities, piggyback facilities or maintenance facilities.

Roadside stands for the display, sale or offering for sale of agricultural products grown or produced on the property; provided, that the stands and produce on display are located ten feet (10') back from the nearest right-of-way line.

Stand-alone solar energy systems of any ownership and size.

Towers exceeding 60 feet in height.

Wind Energy Conversion Systems (WECS).

8.1-4 MINIMUM LOT SIZES:

A. Single-Family Detached Dwelling: Three (3) acres minimum with a width at the established building line of not less than three hundred feet (300).

B. Special Uses: Lot size for special uses shall be specified in the special use permit unless specified as minimum herein.

8.1-5 BUILDING SETBACK LINES:

A. Front Yard: Every building hereafter erected or enlarged shall provide and maintain a front yard of not less than fifty feet (50') and with this exception:

Where lots comprising fifty percent (50%) of the frontage on the same street and within the same block are developed with buildings having front yards with a variation of not more than ten feet (10') in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage, but in no case shall a front yard of more than that stipulated above for the applicable classification of a street on which the property is located be required.

B. Side Yard: A side yard on each side of the zoning lot of not less than fifty feet (50') from property line.

C. Rear Yard: A rear yard of not less than fifty feet (50').

8.1-6 SIGNS:

In addition to sign regulations listed in 8.02, the following signs are allowed in R-1:

a. Signs pertaining to the sale of farm products produced thereon.

- b. Directional signs for any use permitted in R-1.
- c. Nameplate indicating the name or address of the occupant may be back-lit and be a maximum of 1 (one) square foot.

8.1-7 LOT COVERAGE:

No more than ten percent (10%) of the area of the zoning lot may be occupied by buildings and structures, including accessory buildings.

8.1-8 MAXIMUM BUILDING HEIGHTS:

No building or structure shall be erected or structurally altered to exceed the following heights:

- A. Single-Family Detached Dwellings: Thirty five feet (35').
- B. Churches: Seventy five feet (75') for towers and steeples, but not more than thirty five feet (35') for the main structure.
- C. Others: Other nonresidential permitted buildings and structures shall not exceed thirty five feet (35') and not more than three (3) stories in height. Parapet walls, chimneys, cooling towers, stacks, and necessary mechanical appurtenances may be erected over and above the maximum height of thirty five feet (35'), provided they are constructed in accordance with all other regulations of Marshall County.
- D. Special Uses: Maximum height limitations shall be specified with the granting of a special use permit.

8.1-9 OFF-STREET PARKING:

Automobile parking facilities shall be provided as required or permitted in Section 4.7, Off-Street Parking, of this Ordinance.

8.2 R-2 SINGLE-FAMILY RESIDENCE DISTRICT

*** (Sections 8.2-4 through 8.2-9 do not apply to platted subdivisions, subject to covenants and/or bylaws, approved prior to the effective date of this Ordinance, i.e. **Lake Wildwood Association**)***

8.2-1 PURPOSE:

The R-2 District is established to provide low-density areas in which the principal use of land

is for single-family dwellings. In this District public or private water supply and sewer facilities, essential to public health should be available.

It is the intent that the R-2 Single-Family Residence District be located within the one and one-half (1.5) mile area surrounding an incorporated community in order that public utilities may be utilized.

8.2-2 PERMITTED USES:

The following uses are permitted:

Agriculture, as defined in this Ordinance, with the exception of raising livestock, unless such livestock is being kept as part of a 4-H or other related youth project.

Bed and Breakfast.

Churches, temples or synagogues on a lot not less than two (2) acres in area.

Educational Institutions.

Home occupation.

Publically owned recreation areas or facilities, campgrounds, camps, nature and forest preserves.

Single-family detached dwellings.

Solar Energy System attached to a building.

Stand-alone solar energy system owned by the landowner designed to generate energy that will be consumed on the property.

Temporary buildings for construction purposes for a period not to exceed such construction.

Towers up to 35 feet in height.

Accessory building or use incidental to the foregoing principal use, including private garages either attached or detached; a shed or building for domestic storage; private greenhouse and private boat landing.

8.2-3 SPECIAL USES:

The following uses may be allowed by special use permit in accordance with Section 6.5 of

this Ordinance.

Cemeteries, including crematories and mausoleums on a lot not less than ten (10) acres in area and provided no building shall be located less than three hundred feet (300') from a lot line.

Day Care Center.

Golf courses, including commercially operated driving ranges, or miniature golf courses.

Mobile Homes.

Privately owned recreation areas or facilities, campgrounds, camps, nature and forest preserves.

Stand-alone solar energy systems of any ownership and size.

Wind Energy Conversion Systems (WECS).

Public service uses:

- A. Filtration plant, pumping station and water reservoir.
- B. Sewage treatment plant.
- C. Police and fire stations.
- D. Electric and telephone substations and distribution centers.
- E. Gas regulator stations.
- F. Other governmental uses.

Towers exceeding 35 feet in height.

8.2-4 MINIMUM LOT SIZE:

- A. Every single-family detached dwelling hereafter erected shall be located on a lot having an area of not less than one acre (43,560 square feet), and a width at the established building line of not less than one hundred thirty feet (130').

- B. When residential lots are served by public sewer and sewerage treatment facilities and public water, the minimum lot area shall be not less than nine thousand (9,000) square feet with a minimum lot width of not less than eighty feet (80') measured at the setback line.
- C. When residential lots are served only with community water, the minimum lot area shall not be less than fifteen thousand (15,000) square feet with a minimum lot width of not less than ninety feet (90') measured at the setback line.

8.2-5 BULDING SETBACK LINES:

- A. Front Yard:
 - 1. Fifty (50') from the right-of-way line of any Federal or State highway.
 - 2. Eighty feet (80') from the center line of a County highway.
 - 3. Sixty feet (60') from the center line of any other street or road.

Where lots comprising fifty percent (50%) of the frontage on the same street and within the same block are developed with buildings having front yards with a variation of not more than ten feet (10') in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage, but in no case shall a front yard of more than that stipulated above for the applicable classification of a street on which the property is located be required.

- B. Side Yard: A side yard on each side of the zoning lot without either community sewer or community water shall be not less than twenty five feet (25'). When either community sewer or community water is available, there shall be a side yard on each side of the zoning lot of not less than fifteen feet (15') or ten percent (10%) of the lot width, whichever is less. Any lot of record one hundred feet (100') or less in width shall be required to be set back ten percent (10%) of the lot width.

Where a side yard adjoins a street, the minimum width of such yard shall not be less than ten feet (10').

- C. Rear Yard: A rear yard of not less than thirty feet (30').

8.2-6 SIGNS:

In addition to sign regulations listed in 8.02, the following signs are allowed in R-2:

- a. Signs pertaining to the sale of farm products produced thereon.
- b. Directional signs for any use permitted in R-1.
- c. Nameplate indicating the name or address of the occupant may be back-lit and be a maximum of 1 (one) square foot. One for each dwelling is allowed.

8.2-7 LOT COVERAGE:

Not more than thirty percent (30%) of the area of the zoning lot may be occupied by buildings and structures, including accessory buildings.

8.2-8 MAXIMUM BUILDING HEIGHTS:

Same regulations shall apply as permitted or required in the R-1 Rural Residence District.

8.2-9 OFF-STREET PARKING:

Automobile parking facilities shall be provided as required or permitted in Section 4.7 of this Ordinance.

8.3 *R-3 GENERAL RESIDENCE DISTRICT*

8.3-1 PURPOSE:

The R-3 General Residence District is established as a general residence district to provide for a wider variety of dwelling accommodations with a higher density of dwelling units; to provide for multiple-family dwellings with adequate space for family living; and to provide for a transition between nonresidential areas and one-family areas of lower density.

8.3-2 PERMITTED USES:

The following uses are permitted:

Any use which may be allowed as a permitted use in the R-1 and R-2 Residence Districts.

Boarding, lodging and rooming houses.

One-family row dwellings (party wall) with not more than six (6) dwellings in a row or building.

Multiple-family dwellings and apartments.

Solar Energy System attached to a building.

Two-family dwellings.

8.3-3 SPECIAL USES:

The following uses may be allowed by special use permit in accordance with Section 6.5 of this Ordinance.

Any use which may be allowed as a special use in the R-2 Single-Family Residence District.

Mobile Home Parks

Private clubs or lodges, except those the chief activity of which is a service normally carried on by a business.

Undertaking establishments and funeral parlors.

8.3-4 MINIMUM LOT SIZE:

- A. Utilities: All lots in this District shall be served by public sewerage and water facilities.
- B. Every single-family detached dwelling shall be on a lot conforming to the area requirements for a single-family detached dwelling in the R-2 Residence District.

All two-family dwellings hereinafter erected or structurally altered shall be located on a lot having an area of not less than eighteen thousand (18,000) square feet, and a width at the established building line of not less than one hundred thirty feet (130').

- C. All residential structures containing four (4) or more dwelling units shall be located on a lot which provides the following minimum land area per dwelling unit:

Type of Dwelling Unit	Minimum Lot Area Per Dwelling Unit (in sq.ft.)
4 bedroom and over	4,000
3 bedroom	3,500
2 bedroom	3,000
1 bedroom	2,000
Efficiency	1,000

- D. For the purpose of determining lot area, any room other than a living room, dining room, kitchen or bath shall be counted as a bedroom.

Provided, however, that in no case shall the minimum lot area be less than nine thousand (9,000) square feet with a width at the building line of not less than eighty feet (80').

At no time in calculating the dwelling unit density in the R-3 General Residence District shall it be greater than twelve (12) dwelling units per gross acre. Existing residential buildings in the R-3 District may be altered to provide for not more than four (4) dwelling units; providing that no existing residential building is altered in such a way as to conflict with, or further conflict with, the foregoing requirements.

- E. All nonresidential principal uses permitted in the District shall be located on a lot having an area of not less than nine thousand (9,000) square feet and a width at the building line of not less than eighty feet (80').

8.3-5 BUILDING SETBACK LINES:

- A. All yard areas for single-family and two family buildings shall be the same regulations as the regulations required in the R-2 District for single-family dwellings.
- B. For multiple-family buildings, the following shall be provided
 - 1. Front Yard: Every building hereafter erected or enlarged shall provide and maintain a front yard in accordance with the following requirements:
 - a. Fifty (50') from the right-of-way line of any Federal or State highway.
 - b. Eighty feet (80') from the center line of a County highway.
 - c. Sixty feet (60') from the center line of any other street or road.
 - d. Where lots comprising fifty percent (50%) of the frontage on the same street and within the same block are developed with buildings having front yards with a variation of not more than ten feet (10') in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage, on the same streets and within the same block are developed with buildings, but in no case shall a front yard of more than that stipulated above for the applicable classification of a street on which the property is located be required.

2. Side Yards: Two (2) side yards, each not less than thirty feet (30') in width or ten percent of the lot width, whichever is less, except a side yard adjoining a street shall not be less than twenty five feet (25') in width. For any structures more than thirty feet (30') in length, measured perpendicularly to the front lot line, an interior side yard shall be increased in width by one-half foot (2') for each foot the building exceed thirty feet in height.
3. Rear Yard: Not less than thirty feet (30').

8.3-6 SIGNS:

In addition to sign regulations listed in 8.02, the following signs are allowed in R-3:

- a. Signs pertaining to the sale of farm products produced thereon.
- b. Directional signs for any use permitted in R-1.
- c. Nameplate indicating the name or address of the occupant may be back-lit and be a maximum of 1 (one) square foot. One for each dwelling is allowed.
- d. Signs identifying a property must meet the following:
 1. Single sign only
 2. Maximum size shall be nine (9) square feet
 3. Sign shall be for apartments and/or multiple family dwellings.
 4. Name, address of building and name of management may be displayed.

8.3-7 LOT COVERAGE:

For single-family and two family dwellings, building is the same as required in the R-2 District for single-family dwellings.

For buildings containing three (3) or more dwelling units, there shall be maintained maximum lot coverage of forty five percent (45%).

8.3-8 MAXIMUM BUILDING HEIGHTS:

No building shall exceed a height of thirty five feet (35').

8.3-9 OFF-STREET PARKING AND LOADING:

Off-street parking and loading facilities shall be provided as required in section 4.7 of this Ordinance.

**CHAPTER 9
COMMERCIAL DISTRICT**

SECTION:

9.1 Commercial District

9.1 C - COMMERCIAL DISTRICT

9.1-1 PERMITTED USES: The following uses are permitted:

Agriculture, as defined in this Ordinance.

Agricultural implement sales and service.

Ambulance service.

Automobile and truck sales.

Automotive service stations.

Bakery shops, including the baking and processing of food products when prepared for retail use on the premises only.

Banks and financial institutions, including drive-in teller facilities.

Barber shops.

Battery and tire service stations.

Beauty parlors.

Boat showrooms.

Book and stationery stores.

Building material offices and yards.

Candy and ice cream shops.

Drug stores.

Dry-cleaning establishments.

Electrical and household appliance stores, including radio and television sales.

Feed stores.

Food stores, grocery stores, meat markets, fish markets, bakeries, delicatessens and food lockers.

Furniture stores.

Garden supply stores.

Garages for the storage, repair and servicing of motor vehicles.

Gift shops.

Governmental uses, not including highway garages.

Hardware stores.

Hobby shops.

Laundromat and dry cleaning stores.

Live bait stores.

Motels and hotels.

Monument sales, including the cutting and grinding of stones.

Offices, business and professional, including medical clinics.

Package liquor stores.

Paint and wallpaper stores.

Pet Shops.

Photography studios.

Police and Fire stations

Postal substations.
Printing.

Public utility collection offices.

Public utility uses.

Restaurants.

Service and fraternal clubs and lodges.

Shoe stores, including shoe repair shops.

Solar Energy System attached to a building.

Taverns.

Temporary buildings for construction purposes for a period not to exceed the duration of such construction.

Trailer sales or rental, but not including occupancy of trailers as a dwelling.

Undertaking establishments, funeral parlor.

Variety stores.

Wearing apparel shops.

9.1-2 SPECIAL USES: The following uses may be allowed by special use permit:

Grain Elevators.

Other retail business uses not specifically listed above, when found to have economic compatibility with established uses on adjoining property.

Solar energy system which is not attached to a building.

9.1-3 MINIMUM LOT SIZE: The minimum lot size for this district shall be three (3) acres.

9.1-4 BUILDING SETBACK LINES: No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building.

- A. Front Yard: Every building hereafter erected or enlarged shall provide and maintain a front yard in accordance with the following requirements:
1. Fifty feet (50') from the right-of-way line of any Federal or State highway.
 2. Eighty feet (80') from the center line of a County highway.
 3. Sixty feet (60') from the center line of any other street or road.
 4. Where lots comprising fifty percent (50%) of the frontage on the same street and within the same block are developed with buildings having front yards with a variation of not more than ten feet (10') in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage, but in no case shall a front yard of more than that stipulated above for the applicable classification of a street on which the property is located be required.
 5. Pumps in automobile service stations must be set back thirty feet (30') from the front lot line.
- B. Side Yard: No side yard is required, except
1. A corner lot shall maintain the same requirements as the front yard;
 2. A lot which abuts upon a residence district shall have a side yard of twenty-five feet (25');
 3. Motels and hotels shall have a side yard of twenty-five feet (25').
- C. Rear Yard: No rear yard is required, except
1. A lot abutting a residence district shall have a rear yard of twenty-five feet (25');
 2. Motels and hotels shall have a rear yard of twenty-five feet (25').

9.1-5 SIGNS:

- A. Maximum gross surface area for all signs on any lot or premises: two (2) times the lineal feet of frontage of such lot or premises.
- B. Maximum gross surface area for any one sign: two hundred (200) square feet.
- C. Maximum gross surface area for all illuminated signs on any lot or premises: one times the lineal feet of frontage of such lot or premises.

- D. Maximum gross surface area for any one illuminated sign: one hundred (100) square feet.
- E. Each side of a lot or premises which abuts upon more than one street shall be considered as a separate frontage.
- F. No sign shall have any flashing or intermittent illumination.
- G. No sign that is wholly or partially independent of a building for support shall be higher than twenty feet (20') above the ground level and each such sign shall be set back at least twenty feet (20') from the right-of-way line of each street or road of which it fronts. No such sign shall be located within thirty feet (30') of the point of intersection of the right-of-way lines of any two (2) or more streets.

9.1-6 OFF-STREET PARKING: Off-street parking and loading as required in section 4.7 of this Ordinance.

9.1-7 PERFORMANCE STANDARDS:

- A. All business establishments, except grain elevators, shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- B. Exterior lighting fixtures shall be shaded so as to avoid casting direct light upon any property located in a residence district or upon any public street or park.

CHAPTER 10 INDUSTRIAL DISTRICTS

SECTION:

- 10.1 I-1 Light Industrial District
- 10.2 I-2 Heavy Industrial District

10.1 I-1 LIGHT INDUSTRIAL DISTRICT

10.1-1 PERMITTED USES: The following uses are permitted:

Agriculture, as defined in this Ordinance.

Boat sales, service, storage and rental.

Building materials sales.

Car Washes.

Cement block manufacture.

Garages.

Greenhouses.

Cleaning and drying establishments and laundries.

Contractor's offices or construction shops.

Laboratories for testing and research, excluding the raising of animals for research and excluding the testing of fissionable materials.

Machine shops and metal products manufacture and tool and die shops, provided they do not include any of the following equipment: punch presses exceeding fifty (50) tons' pressure, drop forges or riveting and grinding machines.

Manufacture and assembling (or any combination of such process) of products from wood, cork, glass, leather, fur, plastic, felt and other textiles, but not including as a principal operation, the processing of any raw materials.

Mobile home or trailer sales area.

Oil and gas well drilling.

Printing and bindery plants.

Railroad right-of-way and necessary uses.

Solar Energy System attached to a building.

Towers.

Trade schools or vocational centers.

Truck service centers.

Warehouses and storage facilities.

Wholesale business.

Any other manufacturing establishment which can and shall be operated in compliance with the standards of this Ordinance.

Public utility uses, as follows:

- A. Electric and telephone substation and distribution centers.
- B. Filtration plants, pumping stations, water reservoirs, and waterworks.
- C. Gas regulator stations.
- D. Police and fire stations.

Well head stations, well separators and other similar above-the-ground facilities customarily used for the distribution, transmission or storage of natural gas as a part of the operations of a natural gas company. Equipment and other installations may be in completely enclosed buildings or in the open, but must be completely enclosed behind a two inch (2") or less mesh chain-link fence or equal, not less than six feet (6') in height.

Other governmental and nonexempt public utility service uses.

10.1-2 SPECIAL USES: The following uses may be allowed by special use permit:

Accessory uses incidental to and on the same zoning lot as a principal use.

Adult use establishments.

Airports or aircraft landing fields.

Compounding, processing and blending of chemical products, but not including any materials which decompose by detonation.

Solar Energy system which is not attached to a building.

Storage of fuel oils, gasoline, anhydrous ammonia and other flammable materials.

10.1-3 LOT SIZE: The minimum lot size for this District shall be three (3) acres and width at the established building line of not less than two hundred feet (200').

10.1-4 BUILDING SETBACK LINES:

- A. Front Yard: Every building hereafter erected or enlarged shall provide and maintain a front yard in accordance with the following requirements:
 - 1. Fifty feet (50') from the right-of-way line of any Federal or State highway.
 - 2. Eighty feet (80') from the center line of a County highway.
 - 3. Sixty feet (60') from the center line of any other street or road.
- B. Side Yard: Side yard setback requirement of not less than twenty five feet (25') on each side of the main building.
- C. Rear Yard: None.

10.1-5 MAXIMUM LOT COVERAGE: Not more than fifty percent (50%) of the area of the zoning lot may be occupied by buildings and structures, including accessory buildings.

10.1-6 MAXIMUM BUILDING HEIGHT: Twenty two feet (22') plus an additional eleven feet (11') for each additional fifty feet (50') of setback in excess of required minimums.

10.1-7 OFF-STREET PARKING AND LOADING: Off-street parking and loading facilities shall be provided as required by section 4.7 of this Ordinance.

10.1-8 PERFORMANCE STANDARDS:

- A. No building shall be used for residential purposes, except that the owner, operator or watchman and their family may reside on the premises.

- B. All operations, activities and storage (but not off-street parking or loading of motor vehicles in operating condition) shall be conducted or maintained wholly inside buildings, except that storage only may be outside a building if no part of the storage is less than fifty feet (50') from any lot line or line of the tract on which the storage is maintained, and screening, as defined in this Ordinance, is provided between such storage and any lot line which abuts residence district.
- C. No noise from the operation, other than that emanating from vehicular traffic, either continuous or intermittent, shall be detectable at any boundary line of the I-1 District.
- D. No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.
- E. No vibration shall be detectable beyond the lot lines.
- F. No glare or heat shall be detectable beyond the lot lines.
- G. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residence district or upon any public street or park.
- H. All operations and activities shall comply with the emission, noise and water quality requirements of the Illinois Environmental Protection Act, the Federal Environmental Protection Act, and all applicable administrative rules and regulations.

10.2 I-2 HEAVY INDUSTRIAL DISTRICT

10.2-1 PERMITTED USES: The following uses are permitted:

Accessory uses, incidental to and on the same zoning lot as a principal use.

Any other production, processing, cleaning, testing, servicing and repair which can and shall operate in accordance with the standards set forth in Section 10.28 of this Ordinance.

Any use permitted in the I-1 Light Industrial District.

Compressor stations used for the distribution, transmission and storage of natural gas as a part of the operations of a public utility as defined in this Ordinance.

Distillation of ethyl alcohol from farm products on a commercial basis, wholesale or retail.

Motor freight terminals.

Railroad yards, terminals, switching and maintenance areas and facilities, including lodging and sleeping facilities for transient rail.

Sewage treatment plants.

Solar Energy System attached to a building.

10.2-2 SPECIAL USES: The following uses may be allowed by special use permit.

Any use which may be allowed as a special use in the I-1 Light Industrial District.

Asphalt Plant and associated uses.

Automobile wrecking yards.

Chemical plants: Compounding, processing and blending of chemical products, but not including any materials which decompose by detonation.

Mining and handling of aggregates and any activity involving the excavation, extraction, quarrying, mining, crushing, washing, processing or stockpiling of raw materials from the earth, as well as the recycling of broken concrete or asphalt.

Ready-mix concrete plant and associated uses.

Paint and varnish manufacturing.

Processing of meat and vegetable products, including slaughter of animals.

Solar energy system which is not attached to building.

10.2-3 LOT SIZE: The minimum lot size for this District shall be twenty (20) acres and a width at the established building line of not less than two hundred feet (200').

10.2-4 BUILDING SETBACK LINES:

A. Front Yard: Every building hereafter erected or enlarged shall provide and maintain a front yard in accordance with the following requirements:

1. Fifty feet (50') from the right-of-way of any Federal or State highway.
2. Eighty feet (80') from the center line of a County highway.
3. Sixty feet (60') from the center line of any other road or street.

B. Side Yard: Ten percent (10%) of the lot width but not more than twenty five feet (25') on each side of the main building.

B. Rear Yard: None.

10.2-5 MAXIMUM LOT COVERAGE: None

10.2-6 BUILDING HEIGHTS: None.

10.2-7 OFF-STREET PARKING: Off-street parking and loading facilities shall be provided as required in section 4.7 of this Ordinance.

10.2-8 PERFORMANCE STANDARDS:

A. No building shall be used for residential purposes, except that the owner, operator or watchman and their family may reside on the premises.

B. No storage, manufacture or assembly of goods shall be conducted outside a building unless the nearest point of said activity is more than two hundred feet (200') from the boundary of any zoning district other than an I-1 or Commercial District. Screening, as defined in this Ordinance, shall be provided between such storage and any lot line that abuts a residence district.

C. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any residence district or upon any public street or park.

D. All operations and activities shall comply with the emission, noise and water quality requirements of the Illinois Environmental Protection Act, the Federal Environmental Protection Act, and all applicable administrative rules and regulations.

E. All operations and activities shall comply with the emission, noise and water quality requirements of the Illinois Environmental Protection Act, the Federal Environmental Protection Act and all applicable administrative rules and regulations.

(Amended May 12, 2016)