

Chapter 14

ZONING ORDINANCE

Article I. TITLE, PURPOSE AND INTENT

Sec. 1. TITLE

This Chapter of the Municipal Code shall be known, cited, and referred to as the Zoning Ordinance of the Village of Downs, Illinois

Sec. 2. PURPOSE AND INTENT

This Ordinance is adopted for the promotion and protection of the public health, safety, comfort, prosperity and general welfare of the residents of the Village of Downs, Illinois. It is the intent of this Ordinance to:

- a. Secure adequate light, air, and safety from fire and other dangers;
- b. Conserve the value of land and buildings;
- c. Maintain property values and a stable tax base;
- d. Provide for orderly growth and development of the man-made environment;
- e. Protect land and structures from natural hazards including flooding and erosion; and
- f. Provide for the orderly and functional arrangements of land uses and structures.

In order to accomplish the intent of this Ordinance, the Village Board shall have the authority to:

- a. Divide the entire Village into districts and restricting and/or regulating the location, construction, reconstruction, alteration, and use of buildings, structures, and land;
- b. Avoid or lessen congestion on the public streets by requiring adequate off-street parking and loading facilities;
- c. Establish building or setback lines along highways, roads, streets, alleys, or property lines;
- d. Regulate the intensity of the use of lot areas and regulating open spaces surrounding each building;
- e. Permit in each of the zoning districts only those uses, buildings, and structures that are compatible With the character of each district;
- f. Provide controls governing the continuation of uses, buildings, and structures which are incompatible with the character of the district in which they are located;
- g. Define and limit the powers and duties of the administrative officers and bodies; and
- h. Prescribe penalties for the violation of the provisions of this Ordinance.

Chapter 14

ZONING ORDINANCE

Article II. RULES AND DEFINITIONS

Sec. 1. RULES OF CONSTRUCTION

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction, unless the context clearly requires a different construction.

- a. The singular number includes the plural and the plural the singular;
- b. The present tense includes the past and the future tenses and the future tense includes the present;
- c. The word "shall" is mandatory and the word "may" is permissive;
- d. Terms denoting a particular gender shall include each and every gender;
- e. All words and terms not defined shall be construed in their general accepted meaning;
- f. In case there is a difference of meaning between the text of this Ordinance and any caption or illustration, the text definition shall govern; and
- g. The conjunction "and" indicates that all of the connected items shall apply.
- h. "Or" indicates the connected items may apply singly or in any combination.
- i. "Either or" indicates that the connected items shall apply singly but not in combination.

Sec. 2. DEFINITIONS

The following words and terms wherever they occur in this Ordinance shall be construed as herein defined:

- **Accessory building or structure** -- a structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.
- **Adult Entertainment Establishment** -- a business which has a significant or substantial portion of its merchandise that includes videos, tapes, books, magazines or other periodicals for rent or sale which are characterized by an emphasis on depicting, describing or relating to specified anatomical areas or specified sexual activities, or a business with a segment or section devoted to the sale, rental, or display of such material, or a business or private club that features exotic dancers, strippers, male or female impersonators, or which features film or other depiction or description of anatomical areas or sexual activities for observation by their patrons or members and invited guests.
- **Agriculture** -- the use of land for the growing of farm or truck garden crops, horticulture, floriculture, viticulture, or pasturage as a principal use, together with accessory animal and poultry husbandry, dairying, agriculture and other common accessory uses including farm dwellings and other buildings and structures used for agriculture purposes.

Chapter 14

ZONING ORDINANCE

- **Alley** -- a public right-of-way which affords only secondary means of access to abutting property.
- **Animal hospital** -- any building or portion thereof designed or used for the care, observation, or treatment of domestic animals.
- **Automobile Service Station** -- any building or portion thereof to which the motoring public is invited for automobile refueling from underground storage tanks through fixed equipment and where any of the following services are also offered to the motoring public: replacement, adjustment, or repair of lights, tires, batteries, accessories or other minor parts; brake adjustments, engine tuning, lubrication, washing and cleaning when performed wholly within a building. Activities not permitted include vehicle sales, body work, painting, welding, and storage of vehicles not in operating condition.
- **Automobile Salvage** -- an area of land where one or more vehicles, not in running condition, or parts thereof, are stored or any land, building, or structure used for the dismantling or storing of such vehicles or parts thereof not in running condition. This definition does not apply to more than two (2) automobiles stored in a completely enclosed building which is accessory to a residence in a residential district, provided that the automobiles are owned by the resident of the premises and are being repaired for the resident's personal use.
- **Block** -- a tract of land bounded by streets or any combination of streets and parks, cemeteries, shorelines of waterways, corporate limit lines, railroad right-of-way, or other lines of demarcation.
- **Building, Accessory** -- a subordinate building the use of which is incidental and customary to that of the principal building. When an accessory building is attached to a principal building, such accessory building shall comply in all respects with the requirements applicable to the principal building.
- **Building** -- any structure which is built for the support, shelter, or enclosure of persons, animals, or movable property of any kind. Mobile homes or other items not assessed as real property shall not be considered as a building or structure.
- **Building Area** -- the area bounded by the exterior dimensions of the outer walls at the ground line.
- **Building Height** -- the vertical distance from the ground level to the highest point of the roof structure. Chimneys, spires, towers, equipment penthouses, and similar projections shall not be used to calculate building height.
- **Building, Principal** -- a non-accessory building in which the principal use of the lot is conducted.
- **Building, Temporary** -- a building not designed to be permanently located in the proposed location.

Chapter 14

ZONING ORDINANCE

- **Bulk** -- the term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another including:
 - Size and height of buildings;
 - Location of exterior walls in relation to lot lines, streets, or other buildings;
 - All open space allocated to buildings; and
 - Amount of lot area and lot width provided for each use.
- **Carpport** -- a roofed shelter for automobiles having at least two (2) open sides.
- **Car Wash** -- a building or portion thereof containing facilities for washing automobiles using automatic mechanized devices and/or equipment for the hand washing of automobiles.
- **Certificate of Zoning Compliance** -- the certificate issued by the Zoning Enforcement Officer which permits the use of a building in accordance with approved plans which certifies compliance with the provisions of this Ordinance.
- **Clinic** -- a building or portion thereof, the principal use of which is for offices of physicians or dentists or both.
- **Day Care Center** -- an establishment where nine (9) or more children, twelve (12) years of age and under are kept during the day or night.
- **Day Care Home** -- an establishment where not more than eight (8) children are kept during the day or night.
- **District** -- a section or part of the Village within which certain uniform regulations and requirements apply under the provisions of this Ordinance.
- **Dwelling** -- a residential building, or portion thereof, not including hotels, motels, boarding or rooming houses, tourist homes, mobile homes, or trailers.
- **Dwelling Unit** -- a group of rooms constituting all or part of a dwelling which are arranged or used exclusively as living quarters for one family and shall always include a complete kitchen which serves the entire family.
- **Dwelling, Multiple Family** -- a residential building containing three (3) or more dwelling units.
- **Dwelling, Single Family** -- a residential building containing one dwelling unit.
- **Dwelling, Two Family** -- a residential building containing two dwelling units.
- **Family** -- one or more persons related by blood, marriage or adoption, or a group of not more than five (5) persons not so related, together with domestic servants or guests, maintaining a common household in a dwelling unit. A family may include two (2) roomers or boarders whether or not gratuitous. A family may include the occupants of a foster family home or a group home as herein defined.

Chapter 14

ZONING ORDINANCE

- **Floor Area** -- the floor area of a building shall be the sum of the gross horizontal areas of the several floors of such building, measured from the exterior faces of exterior walls or from the center line of party walls, floor area used for off-street parking facilities, and basement floor area that is used for maintenance and operation of the building.
- **Foster Family Home** -- means a facility for child care in residences of families who receive no more than five (5) children unrelated to them, unless all the children are of common parentage, for the purpose of providing family care and training for the children on a full time basis, except the Director of the Illinois Department of Children and Family Services, pursuant to Department regulations, may waive the limit of five (5) children unrelated to the adoptive family for good cause and only to facilitate an adoptive placement. The family's own children, under 18 years of age, shall be included in determining the maximum number of children served. The term "foster family home" includes homes receiving children from any State-operated institution for child care; or from any agency established by a municipality or other political subdivision of the State of Illinois authorized to provide care for children outside their own homes.
- **Frontage, Lot** -- all of the property of a lot fronting on a street as measured along the front property line between side lot lines.
- **Garage, Private** -- an accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory and in which no business, service, or industry is carried on; provided that not more than one-half of the space may be rented for storage of motor vehicles of persons not residing on the premises. Such a garage may be used for the storage of not more than one (1) commercial truck having a load capacity of 1½ tons or more.
- **Garage, Repair** -- a building or an accessory building which is intended for or is being used for repair and servicing of motor vehicles or other motorized equipment.
- **Group Home** -- means a child care facility which provides care for not more than five (5) children placed by and under the supervision of a licensed child welfare agency with these homes being owned or rented, staffed, maintained and otherwise operated by the agency. Group home also means a dwelling providing shelter to more than five (5) unrelated persons who are handicapped, as defined by this Ordinance.
- **Home Occupation** -- Any occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes.
 - Such home occupation shall be carried on within the principal building by immediate family members currently residing on the premises, and no more than one additional person who is not an immediate family member shall be employed in such home occupation.

Chapter 14

ZONING ORDINANCE

- There shall be no exterior display, no exterior sign except for a permitted nameplate when attached to a principal building in which such home occupation is located, no exterior storage or other variation from the residential character of the principal building, and no offensive noise, vibration, smoke, dust, odor, heat, glare, or vehicle parking nuisance shall be created.
- Such home occupation shall not occupy more than twenty-five (25) percent of the ground floor area of the dwelling and not more than fifty (50) percent of the basement of such dwelling.
- There shall be no commodities sold or services rendered by such home occupation that require receipt and delivery of merchandise, goods, equipment by other than a passenger motor vehicle, small parcel delivery or by first class mail.
- **Hotel (Motel, Motor Hotel)** -- an establishment containing lodging rooms for occupancy by transient guests. Such an establishment providing customary services such as maid services, furnishing laundry of linens used in the rooms, and a central desk with telephone and secretarial services.
- **Incompatible Use** -- a use or service which is incapable of direct association with certain other uses because it is contradictory, incongruous or discordant.
- **Junk Yard** -- an open area or fenced in enclosure where used or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled including but not limited to scrap metal, paper, rags, tires, or bottles.
- **Lot** -- a parcel or tract of land located within a single block which is occupied or intended to be occupied by one principal building together with any accessory buildings and such open space that may or may not be required by this Ordinance. All lots must have frontage along a public street.
- **Lot Area** -- the computed area contained within the lot lines.
- **Lot, Corner** -- a lot situated at the junction of and abutting two (2) or more intersecting streets; or a lot at the point of deflection in the alignment of a single street, the interior angle of which is 135 degrees or less.
- **Lot Depth** -- the mean horizontal distance between the front lot line and the rear lot line measured within the lot boundaries.
- **Lot, through** -- a lot which has a pair of opposite lot lines along two public streets which are more or less parallel, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- **Lot Line** -- a property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.

Chapter 14

ZONING ORDINANCE

- **Lot Line, Front** -- the boundary of a lot which is along a dedicated street or public way. The owner of a corner lot may select either street lot line as the front lot line.
- **Lot Line, Rear** -- that boundary of a lot which is most distance from and is or is approximately parallel to the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.
- **Lot Line, Side** -- any boundary of a lot which is not a front or rear lot line.
- **Lot Width** -- the minimum horizontal distance between the side lot lines measured at the buildable area.
- **Mobile Home** -- a dwelling unit of vehicular, portable design built on a chassis and designed to be moved from one site to another and to be used without a permanent foundation.
- **Manufactured Home** -- a double wide mobile home with a shingled gable or hip roof intended to be placed on a permanent foundation on a lot of its own. Said mobile home must have the approval of the United States Department of Housing and Urban Development as complying with the Federal Manufactured Home Construction and Safety Standards.
- **Mobile Home Park** -- a lot, parcel, or tract of land developed with facilities for accommodating two (2) or more mobile homes provided such park shall be used only for non-transient dwellers remaining continuously for more than one month. It shall not include a sales lot in which unoccupied mobile homes are parked for the purpose of inspection or sale.
- **Motel** -- see " Hotel"
- **Motor Freight Terminal** -- a building or lot on which freight brought by truck is stored, sorted, or routed for intrastate or interstate shipment.
- **Motor Vehicle** -- a passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.
- **Non-conforming Building or Structure** -- a building other than a single-family dwelling located in a residence district or structure which does not comply with all of the regulations of this Ordinance governing bulk for the District in which such building is located.
- **Non-conforming Use** -- a lawfully established use of land or building which does not comply with all of the regulations of the Ordinance governing use for the District in which such use is located. For the purpose of this Ordinance, any use, lawfully established on the effective date of this Ordinance which is non-conforming solely by virtue of lacking off-street parking or loading facilities as required for new uses shall not be deemed non-conforming.
- **Nursing Home** -- an establishment for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders. Such a home does not contain facilities, other than for normal care and medical treatment of the occupants, for surgical, care, or the treatment of

Chapter 14

ZONING ORDINANCE

disease or injury, obstetrics nor does it include the care of the mentally ill or substance abuse patients.

- **Off-Street Parking** -- a suitably surfaced and maintained area of land of sufficient size to store a standard motor vehicle, but in no instance less than 180 square feet in area exclusive of passageways, driveways, or other means of circulation or access.
- **Off-Street Loading** -- a space accessible from a street, or alley in a building or on a lot for the use of trucks while loading or unloading material.
- **Open Sales Lot** -- land used for the purpose of buying or selling merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes but is not limited to passenger cars, trucks, motor cycles, mobile homes, boats, and trailers.
- **Public Way** -- an easement or other right-of-way that is not an alley or street, which affords primary means of access to a lot.
- **Recreational Vehicle** -- vehicles licensed to travel on the highway including:
 - a. Travel Trailer -- a vehicular structure built on a chassis designed to be used as a temporary dwelling for travel, recreation, or vocational uses;
 - b. Pick-Up Coach -- a structure designed to be mounted on a truck chassis for use as a temporary dwelling;
 - c. Motor Home -- temporary dwelling constructed as an integral part of a self-propelled vehicle; and
 - d. Camping Trailer -- a canvas or metal folding structure mounted on wheels and designed for recreational or vacation use.
- **Rooming House** -- any building containing one or more rooming units in which space is let by the owner or operator to more than five (5) persons.
- **Setback** -- a minimum horizontal distance between the setback line and the front lot line.
- **Setback Line** -- a line on a lot that extends for the full length of a lot line adjoining a street and which is not nearer at any point to a lot line abutting a street than the required depth of the yard. No building shall encroach into the area between the setback line and the lot line adjoining a street.
- **Sign** -- any identification, description, illustration, or other device illuminated or non-illuminated which is visible from any public place or is located on private property and is exposed to the view of the public and which directs attention to a product, service, activity, person, institution, business, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard, or temporary sign designed to convey information with the exception of window displays of merchandise. Temporary signs are exempt from this definition provided they are for the purpose of displaying information pertaining to an event of public interest such

Chapter 14

ZONING ORDINANCE

as fairs or elections, provided that such signs shall be removed no later than ten (10) days following the event.

- **Sign, Area** -- the total exterior surface, computed in square feet, on a sign having but one exposed surface. On signs having two (2) or more exposed surfaces, the area shall be the total of its component surfaces.
- **Special Use** -- a special use is a specific use of land or building permitted herein subject to special conditions and which because of its unique characteristics, cannot be properly classified as a permitted use.
- **Specified Anatomical Areas** -- means:
 - a. Less than completely and opaquely covered;
 - 1) Human genitals and pubic regions;
 - 2) Human buttocks;
 - 3) Human female breast below a point immediately above the areola;
 - b. Human male genitals in a discernible turgid state even if completely and/or opaquely covered.
- **Specified Sexual Activities** -- means:
 - a. Acts of human masturbation, sexual intercourse, and/or sodomy; and
 - b. Fondling or other erotic touching of human genitals, pubic regions, buttocks, and/or female breasts.
- **Street** -- a right-of-way which affords a primary means of access to abutting property.
- **Structural Alterations** -- any change, other than incidental repairs, which would prolong the life of the supporting members of a building such as bearing walls, or partitions, columns, beams, or girders; or any substantial change in the roof or exterior walls.
- **Substantial Improvement** -- any repair, reconstruction, or improvement of a building, the cost of which equals or exceeds fifty percent (50%) of the market value of the building, either before the improvement is started, or if the building has been damaged, before the damage occurred.
- **Use** -- a purpose or activity for which the land or building is designed, arranged, occupied, or maintained.
- **Use, Accessory** -- a subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use, except for such accessory parking facilities as are specifically authorized to be located elsewhere.
- **Use, Permitted** -- a use which may be lawfully established in a particular district or districts provided it conforms to all requirements, and/or regulations of such district.
- **Use, Principal** -- the main use of land or building as distinguished from a subordinate or accessory use.

Chapter 14

ZONING ORDINANCE

- **Yard** -- an open space on a lot which is unoccupied and unobstructed from its lowest level to the sky.
- **Yard, Front** -- a yard extending along a street, the full width of the lot between side lot lines.
- **Yard, Side** -- a yard which is adjacent to any side lot line extending between the front yard line and the rear yard line.
- **Yard, Rear** -- a yard located along and parallel to a rear lot line and extending the full width of the lot between side lot lines.
- **Zoning Enforcement Officer** -- an official or officials appointed by the Village President with approval of the Village Board of Trustees to administer and enforce the Zoning Ordinance of the Village of Downs.

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Chapter 14

ZONING ORDINANCE

Article III. GENERAL PROVISIONS

Sec. 1. INTERPRETATION

- a. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements necessary for the promotion of the public health, safety, and general welfare.
- b. Where the provisions imposed by this Ordinance are more or less restrictive than comparable conditions imposed by any other law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive shall govern.
- c. This Ordinance does not abrogate any easement, covenant, or any other private agreement and such private agreements do not abrogate any of the provisions of this Ordinance.
- d. No building, structure, or use which was not lawfully existing at the time of the adoption of this Ordinance shall be made lawful solely by reason of the adoption of this Ordinance.
- e. All buildings or structures erected hereafter, all uses of land, buildings, or structures established hereafter, and all substantial improvements of existing buildings or structures occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the Zoning District in which such building, structure, or use of land shall be located. Except in any Residential District and the Agriculture District, a single family detached dwelling may be erected on a lot of record existing on the effective date of this Ordinance even though such lot does not conform with lot width and lot area requirements for the District in which it is located provided that there is compliance with all other regulations contained in this Ordinance.

Sec. 2. SEPARABILITY

It is hereby declared to be the intention of the Village Board of Trustees of the Village of Downs, Illinois that the several provisions of this Ordinance are separable in accordance with the following:

- a. If any court of competent jurisdiction shall adjudge any provision 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 such judgment.

Chapter 14

ZONING ORDINANCE

Sec. 3. GENERAL EXEMPTIONS

- a. When a building is under construction prior to the effective date of this Ordinance, said building may be completed and it may be occupied by the use originally intended. Such buildings and uses shall be subject to the provisions of this Ordinance for **Nonconformities** (Section 10).
- b. The following uses are permitted in all Districts: poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves and natural gas regulating stations, sewage lift stations, water wells and pump stations, railroad rights-of-way, public rights-of-way and temporary buildings at construction sites.
- c. The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae, water tanks, flag poles, public monuments, agriculture structures, chimneys, ventilators, or other appurtenances usually required to be placed above the roof level and not intended for human habitation.

Sec. 4. PRINCIPAL BUILDINGS

- a. There shall not be more than one principal building on any one lot in any Residential District.
- b. Every principal building hereinafter erected shall be on a lot adjacent to a public street and so located as to provide safe and convenient access for servicing and fire protection.

Sec. 5. ZONING OF ANNEXED TERRITORY

Any addition to the corporate limits of the Village of Downs shall be automatically placed into the A Agriculture District until otherwise classified by an amendment to this Ordinance unless a different Zoning District is established by an annexation agreement between the Village and the property owner.

Sec. 6. ACCESSORY BUILDINGS, STRUCTURES, AND USES

Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically, or by necessary implication in this or any other Ordinance, code rule, or regulation applicable to the Village, the following special rules are applicable to all accessory uses and structures:

- a. Accessory uses shall be compatible with the principal use and shall not be established prior to the principal use.
- b. An accessory building hereafter constructed, erected, placed, altered, enlarged, or moved on a lot shall conform with the following requirements:
 - 1) No accessory building shall be permitted within the required front yard or side yards of a lot as set forth in each district.

Chapter 14

ZONING ORDINANCE

- 2) No accessory building shall be permitted nearer than ten (10) feet from the nearest wall of a principal building nor shall it be located nearer than three (3) feet from a side or rear lot line. No accessory building shall be located in any easement or nearer than ten (10) feet to an alley right-of-way line when the entrance to the accessory building for motor vehicles is from the alley.
- 3) No accessory building in a residence district shall exceed one story or fourteen (14) feet in height. Accessory buildings in other districts may be constructed to a height equal to the permitted height of principal buildings in the district.
- 4) The gross floor area of all accessory buildings shall not exceed thirty (30) percent of the rear yard of the lot. The gross floor area of an accessory building constructed in a residence district shall not exceed the ground floor area of the principal building located on the same lot.
- 5) No mobile home or similar portable unit shall be used as an accessory structure except when used in conjunction with the construction of a principal use or structure.
- 6) An accessory building which is attached to a principal building shall be considered as part of the principal building and shall be subject to all regulations governing the location of principal buildings.
- 7) A home occupation, as herein defined, shall be permitted as an accessory use in all residence districts.
- 8) Antennas shall be considered an accessory structure in all zoning districts. As such, the placement of antennas shall conform to the following requirements:
 - i. Free standing antenna shall not exceed fourteen (14) feet in height unless certified as safe by a registered engineer or architect.
 - ii. Antenna in a residential district may only be located in the rear yard. If a signal can not be received in the rear yard, the antenna may be located in the side yard behind the front setback line and subject to all the requirements applicable to other accessory structures.
 - iii. No more than one (1) antenna receiving any one kind of signal shall be allowed per lot in a residence district.
- 9) One mobile home shall be permitted as a provisional accessory residential use on a lot where a single-family dwelling lawfully located thereon has been either destroyed or so damaged as to be uninhabitable by fire, explosion or natural disaster, subject to the following conditions and stipulations:
 - i. Such mobile home shall not be placed on the lot, nor shall it be occupied until the Zoning Enforcement Officer has issued a Provisional Occupancy Permit for such use. Application for such permit shall be made by the owner of the lot and shall

Chapter 14

ZONING ORDINANCE

be accompanied by a sworn affidavit certifying intent to rebuild the destroyed or damaged dwelling and agreeing to the conditions and stipulations of this section, certification of approval of the required sewage disposal system and potable water supply by the McLean County Health Department, evidence that posting of surety required herein has been accomplished, a fee of ten dollars (\$10.00) and such other information as the Zoning Enforcement Officer may require to determine compliance with this Ordinance.

- ii. Such mobile home shall be occupied only by the person(s) who were residing in the destroyed or damaged dwelling when the destruction or damage occurred.
- iii. Such mobile home shall have a floor area of at least 400 square feet, shall contain built-in toilet and bathing facilities, shall be connected to a potable water supply and a sewage disposal system, both approved by the McLean County Health Department, and shall be located on the lot in compliance with requirements of this Ordinance for the location of an accessory building.
- iv. Such mobile home may be placed on the lot only if it is so placed and residential occupancy begun within the first thirty (30) days immediately following the occurrence of the destruction or damage.

10) The mobile home shall not remain on the lot:

- i. more than thirty (30) days following its placement thereon unless a valid building permit has been acquired for the repair or replacement of the damaged or destroyed dwelling on the same lot,
- ii. more than one hundred-twenty (120) days after the issuance of such building permit unless the repair or construction authorized by such permit is substantially underway,
- iii. more than one (1) year after the occurrence of the destruction or damage, or beyond the time the repair or reconstruction of the dwelling is at a stage where the dwelling can reasonably be occupied, whichever comes first.

If such mobile home remains on the lot beyond any of the times specified in (1), (2), or (3) above, the surety shall be forfeited in addition to other remedies provided by law.

11) A surety deposit in the amount of one-thousand dollars (\$1,000.00) in cash money or certified check shall be deposited with the Village Treasurer by the owner of the lot where such mobile home is proposed to be located. The surety deposit shall be forfeited and placed in the McLean County General Corporate Fund upon certification by the Zoning Enforcement Officer that such mobile home has remained on the lot beyond any of the times specified in paragraph (e) above. In the event that removal of the mobile home from the lot in compliance with said paragraph (e) is accomplished, the surety deposit shall be returned to the lot owner no sooner than ten (10) days, and no longer than thirty

Chapter 14

ZONING ORDINANCE

(30) days after such removal has been certified by the Zoning Enforcement Officer.

Sec. 7. YARDS AND OTHER OPEN SPACES

- a. Yards and other open spaces as required by this Ordinance, shall be located on the same lot as the principal building, structure, or use.
- b. No legally required yards, other open space, or minimum lot area allocated to any existing building, structure, or use shall be by virtue of change in ownership or for any other reason used to satisfy yard or open space or minimum lot area requirements for any other building, structure, or use.
- c. No improved lot shall hereinafter be divided into two (2) or more lots and no part of an improved lot shall be sold unless all improved lots resulting from such subdivision or sale shall conform with all bulk regulations applicable in the district where the lot is located.
- d. No yards allocated to an existing building, structure, or use shall be subsequently reduced or further reduced below the minimum yard requirements of this Ordinance applicable in the district where the building, structure, or use is located.
- e. Where a lot is zoned into a nonresidential district and said lot is contiguous to or across an alley from a lot zoned in a residence district, the required front, side, and rear yards required in said residence district shall be provided on the contiguous non-residence lot.
- f. It shall be unlawful for any person to engage in the outdoor storage of business merchandise and/or equipment that is abutting any residence district unless and until such persons installs a solid opaque fence. Said fence shall be at least six (6) feet high along the lot line abutting the residence district. None of the aforementioned material may be stored in the required front yard.

Sec. 8. PERMITTED OBSTRUCTIONS IN REQUIRED YARDS

No obstruction shall be allowed in any yard required by this Ordinance. However, the following shall not be considered to be obstructions when located in required yards:

- a. In all required yards:
 - 1) Sills, belt cornices, and other architectural features extending no more than eighteen (18) inches into a yard.
 - 2) Awnings or canopies projecting into a required yard not more than twenty-five (25) percent of the required yard depth.
 - 3) Steps, fire escapes, or ramps
 - 4) Chimneys projecting twenty-four (24) inches or less into a required yard.
 - 5) Arbors and trellises, flagpoles and air conditioner compressors

Chapter 14

ZONING ORDINANCE

- 6) Trees and shrubs
- b. In required front yards:
 - 1) Bay windows projecting three (3) feet or less into the required yard.
 - 2) Open porches, terraces, or decks projecting not more than ten (10) feet into the required yard.
 - 3) Eaves and gutters projecting not more than four (4) feet into a front or rear yard or not more than two (2) feet into a side yard.
 - 4) Fuel pumps, air and water outlets when used in conjunction with an automobile service station provided, they are setback at least ten (10) feet from the front lot lines.
 - 5) No fencing is allowed unless a zoning variance has been obtained.
 - c. In required rear yards:
 - 1) Off-street parking facilities
 - 2) Swimming pools, tennis courts, and other similar recreation facilities
 - 3) Buildings when permitted as accessory buildings
 - 4) Balconies, open porches, terraces, decks
 - 5) Bay windows projecting three (3) feet or less into the required yard
 - 6) Eaves and gutters, provided that eaves and gutters on accessory buildings are not closer than two (2) feet from a lot line; and
 - 7) Fences and walls not to exceed six (6) feet in height in residential districts and eight (8) feet in height in all other districts. Fences may be opaque.
 - d. In required side yards:
 - 1) Off-street parking facilities
 - 2) Eaves and gutters projecting two (2) feet or less
 - 3) Fences and walls not to exceed six (6) feet in height in residential districts, and eight (8) feet in height in all other districts. Fences may be opaque.

Sec. 9. SPECIAL USES

- a. To provide for the location of special classes of uses which are deemed desirable within a given district, but which are potentially incompatible with the typical use permitted in said district, a classification of special uses is hereby established.
- b. A special use permit shall be considered at a public hearing before the Zoning Board of Appeals and its report of findings of fact and recommendations shall be made to the Village Board. The

Chapter 14

ZONING ORDINANCE

Village Board may allow the special use in the district indicated under the conditions stipulated and may impose such additional conditions as it considers necessary to protect the public health, safety, and welfare.

- c. Where a building, structure, or use thereof lawfully exists on the effective date of this Ordinance and such use is classified as an allowable special use in the district in which it is located, such special use shall be considered a lawful special use.

Sec. 10. NONCONFORMITIES

a. Intent

It is the purpose of this Section to provide for the regulation of nonconforming uses of land, buildings and structures. It is not the purpose of this Section to deprive the owner of the use or maintenance of any property for the purpose to which it is lawfully devoted at the time of the adoption of this Ordinance.

b. Exempted Uses, Buildings and Structures

- 1) A use, building or structure shall not be subject to the provisions of this section solely by reason of being nonconforming with respect to the standards for yards, lot area per dwelling unit, lot width or off-street parking or loading facilities.
- 2) A building or structure used for residential purposes shall not be subject to the provisions of this Section.

c. Nonconforming Uses of Land, Buildings or Structures

Where on the original effective date of the adoption of this Ordinance, a lawful use of land, building or structure exists that is no longer permissible under the regulations and standards of this Ordinance, such use may be continued subject to the following provisions:

- 1) Such uses may be enlarged, or extended to occupy a greater area of land or a greater portion of a building or structure than was occupied on the date when the use became nonconforming, or such uses may be moved to any other portion of the lot, building or structure not so occupied when the use became nonconforming provided that any such enlargement, extension or move does not take place in any required yard established by the regulations contained in the District in which the use, building or structure is located;
- 2) No nonconforming use may be changed to any other nonconforming use.

d. Nonconforming Signs

Signs which do not conform to the provisions of this Ordinance as of the date of its adoption, may not be enlarged or replaced with a sign that does not meet the requirements for signs in the District in which the sign is located.

Chapter 14

ZONING ORDINANCE

Article IV. ZONING DISTRICTS

Sec. 1. ZONING DISTRICTS

In order to accomplish the purposes and intent of this Ordinance, the incorporated portions of the Village of Downs, Illinois are hereby organized into the following districts:

- A Agriculture District
- R-1 Low Density Residential District
- R-2 Medium Density Residential District
- R-3 High Density Residential District
- R-4 Mobile Home Residential District
- C-1 Central Commercial District
- C-2 General Commercial District
- P Public Use District
- M-1 Restricted Manufacturing District
- M-2 General Manufacturing District

Sec. 2. ZONING DISTRICT MAP

The location and boundaries of the districts established by this Ordinance are set forth on the Zoning District Map which is incorporated herein and hereby made a part of this Ordinance. Said map shall be filed with the Village Clerk and shall be open to public inspection at all times when said office is open.

Sec. 3. BOUNDARIES OF DISTRICTS

When uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning District Map, the following rules shall apply:

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Chapter 14

ZONING ORDINANCE

Article V. ZONING DISTRICT REGULATIONS

Sec. 1. A – AGRICULTURE DISTRICT

This district is composed of land being used for agricultural activities located near the periphery of the incorporated area when said area is not expected to develop for intensive urban uses within the near future. It is the intent of this district to conserve the desirable characteristics of the land, to prevent conflicts between agricultural and non-agricultural uses, and to facilitate the orderly development of the Village.

a. Permitted Uses

The following uses are permitted in the A – Agriculture District:

- 1) Agricultural uses
- 2) Temporary buildings for construction purposes
- 3) Accessory uses to agriculture
- 4) The conversion of farm dwellings to nonfarm dwellings provided that the lot area shall be at least one (1) acre in area with a lot width of at least one hundred fifty (150) feet and required yards equal to the yards required in the R-1 Low Density Residential District.
- 5) Home occupations

b. Special Uses – None

c. Height Regulations – No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet in height.

d. Minimum Lot Area, Frontage, and Yard Requirements

The following minimum requirements shall be observed:

- 1) Lot area – 43,560 square feet exclusive of road right-of-way
- 2) Lot width – 150 feet
- 3) Yards
 - i. Front yard – 50 feet
 - ii. Side yard – 20 feet
 - iii. Rear yard – 50 feet

e. Signs

Non-flashing, illuminated signs shall be permitted subject to the following:

- 1) Agricultural uses may have one sign per farm dwelling which shall not be more than six (6) square feet in area, indicating the name of the occupant and any specialized agricultural services. Such signs as required for crop identification during the growing season are also permitted.
- 2) Projection – No sign shall project into the public right-of-way.
- 3) Height – No sign shall be more than fifteen (15) feet in height.

Chapter 14

ZONING ORDINANCE

Sec. 2. R-1 – LOW DENSITY RESIDENTIAL DISTRICT

This District is composed of land being used for single family residential purposes in areas where no public sanitary sewer system is available. It is the intent of this District to provide for the suitable location of residential uses where the full range of public utilities are not available. The bulk regulations are designed to permit private sewerage disposal systems while protecting health, safety, and general welfare.

- a. Permitted Uses
 - 1) Single family residential uses
 - 2) Agricultural uses excluding livestock
 - 3) Home occupations
 - 4) Accessory uses
- b. Special Uses – Expansion of a nonconforming use, building or structure
- c. Height Regulations – No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet in height.
- d. Minimum Lot Area, Frontage, and Yard Requirements
 - 1) Lot Area – 22,500 square feet
 - 2) Lot Width – 125 feet
 - 3) Yards
 - i. Front yard – 40 feet
 - ii. Side yard – 15 feet
 - iii. Rear yard – 40 feet
- e. Signs

Non-illuminated and illuminated name plates shall be permitted subject to the following:

- 1) Residential uses may have one sign per dwelling unit which shall be no more than two (2) square feet in area.
- 2) Said sign shall only contain the name and address of the occupant of the dwelling.
- 3) Said sign must be placed flush with the wall of a principal or accessory building or structure.

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Chapter 14

ZONING ORDINANCE

Sec. 3. R-2 – MEDIUM DENSITY RESIDENTIAL DISTRICT

This District is composed of land being used for predominantly single-family residential purposes in areas where public water and sanitary systems are available. It is the intent of this district to provide for the suitable location for residential uses throughout the community taking into consideration existing densities as well as providing a density of housing that will be attractive to potential developers and builders.

- a. Permitted Uses
 - 1) Single family residential uses
 - 2) Home occupations
 - 3) Accessory uses
- b. Special Uses
 - 1) Two family dwellings
 - 2) Manufactured homes as herein defined
 - 3) Day care homes
 - 4) Expansion of a nonconforming use, building or structure
- c. Height Regulations – No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet in height.
- d. Minimum Lot Area, Frontage, and Yard Regulations
 - 1) Lot Area – 7,200 square feet
 - 2) Lot Width – 85 feet
 - 3) Yards
 - i. Front yard – 25 feet
 - ii. Side yard – 6 feet
 - iii. Rear yard – 25 feet
- e. Signs

Non-illuminated and illuminated name plates shall be permitted subject to the following:

- 1) Residential uses may have one sign per dwelling unit which shall be no more than two (2) square feet in area.
- 2) Said sign shall only contain the name and address of the occupant of the dwelling.
- 3) Said sign must be placed flush with the wall of a principal or accessory structure.

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Chapter 14

ZONING ORDINANCE

Sec. 4. R-3 – HIGH DENSITY RESIDENTIAL DISTRICT

This District is composed of land being used for predominantly multi-family residential purposes in areas that will not conflict with the use and enjoyment of lower density single family residential areas.

a. Permitted Uses

- 1) Single family residential uses
- 2) Manufactured homes as herein defined
- 3) Two family dwellings
- 4) Multi-family residential uses
- 5) Rooming Houses
- 6) Day Care homes
- 7) Accessory uses

b. Special Uses

- 1) Nursing Homes
- 2) Day Care Centers
- 3) Expansion of a nonconforming use, building or structure

c. Height Regulations – No structure shall exceed two and one-half (2½) stories or thirty-five (35) feet in height.

d. Minimum Lot Area, Frontage, and Yard Regulations

- 1) Lot Area
 - i. Single Family dwellings and manufactured homes – 6,600 square feet
 - ii. Two family dwellings – 3,700 square feet per dwelling unit
 - iii. Multi-family dwelling – 2,500 square feet per dwelling unit
- 2) Lot Width
 - i. Single Family dwelling and manufactured homes – 60 feet
 - ii. Two family dwellings – 70 feet
 - iii. Multi-family dwellings – 70 feet
- 3) Yards
 - i. Front yard – 25 feet
 - ii. Side yard – 10 feet
 - iii. Rear yard – 25 feet

e. Signs

Non-illuminated and illuminated signs shall be permitted subject to the following:

- 1) Single family, manufactured homes, and two-family dwellings may have one sign per dwelling unit which shall be no more than two (2) square feet in area. Multi-family structures may have one (1) sign per structure which shall be no more than eight (8) square feet in area.

Chapter 14

ZONING ORDINANCE

- 2) Said signs shall contain only the name and address of the occupant(s) of the dwelling; however, signs for multi-family structures may also contain the name of the building or building complex.
- 3) Said sign must be placed flush with the wall of a principal or accessory structure. Signs for multi-family buildings or complexes may be free standing when located no closer than twenty-five (25) feet from the front property line and no more than four (4) feet above ground level.

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Chapter 14

ZONING ORDINANCE

Sec. 5. R-4 – MOBILE HOME RESIDENTIAL DISTRICT

This District is composed of land to be used as the site for the placement of mobile homes in a mobile home park setting. All mobile home parks herein after constructed within the corporate limits of the Village of Downs, Illinois shall fully comply with Chapter 210 Illinois Compiled Statues, Act 115, Sections 1 through 27, and Act 120, Sections 1 through 7 or the following regulations, whichever is stricter.

a. Permitted Uses

Mobile home parks that contain one (1) or more contiguous tracts of land for the development of four (4) or more mobile homes including accessory buildings or structures.

b. Special Uses - Expansion of a nonconforming use, building or structure.

c. Height Regulations – No structure shall exceed one (1) story or fifteen (15) feet in height.

d. Minimum Lot Area, Frontage, and Yard Regulations

1) Lot Area – 4,500 square feet per dwelling unit

2) Lot Width – 50 feet

3) Yards – These yards shall apply to each mobile home lot or site and all accessory buildings. The mobile home park shall provide a fifty (50) foot yard around the perimeter of the entire site.

i. Front yard – 20 feet

ii. Side yard – 5 feet

iii. Rear yard – 25 feet

e. Signs

Non-illuminated and illuminated signs shall be permitted subject to the following:

1) Each mobile home park may have one (1) sign which shall be no more than eight (8) square feet in area

2) Said sign shall only contain the name and address of the mobile home park as well as the name, address, and phone number of the mobile home park manager.

3) Said sign may be free standing when located no closer than twenty-five (25) feet from any property line and no more than four (4) feet above ground level.

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Chapter 14

ZONING ORDINANCE

Sec. 6. C-1 – CENTRAL COMMERCIAL DISTRICT

The District is composed of land to be used for a wide variety of commercial establishments that should be located near the center of the community and adjacent to major streets.

a. Permitted Uses

- 1) A dwelling unit is permitted only when located above the first floor of a principal building.
- 2) Antique shops
- 3) Art schools, supply stores, and galleries
- 4) Banks and financial institutions
- 5) Barber shops and beauty parlors
- 6) Book and stationery stores
- 7) Candy and ice cream stores
- 8) Clinics
- 9) Department stores
- 10) Drug stores
- 11) Dry goods stores
- 12) Electrical and household appliance stores
- 13) Florist shops
- 14) Food stores
- 15) Furniture stores
- 16) Garden supply and seed stores
- 17) Hardware stores
- 18) Hobby shops
- 19) Jewelry stores
- 20) Liquor stores, package sales only
- 21) Medical and dental clinics
- 22) Offices, business and professional
- 23) Restaurants, including the sale of alcoholic beverages if incidental to the principal use of serving food.
- 24) Sporting goods stores
- 25) Taverns when any lot line on which the tavern is located is at least one hundred (100) feet from a residential district boundary line
- 26) Wearing apparel stores
- 27) Other uses similar in character to the uses listed above when approved in writing by the Zoning Enforcement Officer.
- 28) Accessory uses.

b. Special Uses

- 1) Parking lots for the storage of private passenger vehicles provided that the construction conforms to applicable regulations set forth herein.
- 2) Adult entertainment establishments provided that the lot line of the establishment is not

Chapter 14

ZONING ORDINANCE

within 1,000 feet of any residence district boundary line or any lot line occupied by a church, school, park, or any establishment used for the care of children, including but not limited to day care centers and day care homes as defined herein.

- 3) Other uses as outlined in Article III, Section 9
 - 4) Expansion of a nonconforming use, building or structure.
- c. Height Regulations – No structure shall exceed three (3) stories or forty (40) feet in height.
- d. Minimum Lot Area, Frontage, and Yard Regulations
- 1) Lot Area - there shall be no minimum lot area required
 - 2) Lot Width – 20 feet
 - 3) Yards
 - i. Front yard – there shall be no minimum front yard required.
 - ii. Side yard – there shall be no minimum side yard required. However, if a side yard is provided, it shall be at least five (5) feet in width.
 - iii. Rear yard – there shall be no minimum rear yard required.
- e. Signs
- 1) Signs on awnings shall be exempt from the limitations on the projection of signs from the wall of any building, provided that the sign shall be:
 - i. Non-illuminated;
 - ii. Shall contain only the name, address, and telephone number of the business; and
 - iii. The area of the sign shall not project beyond the limits of the awning.
 - 2) All signs may only have constant illumination and where a sign is illuminated by light reflected upon it, direct rays of light shall not fall upon any part of a residential building or public street.
 - 3) The total surface area of all signs on a lot shall not exceed six (6) times the lineal feet of street frontage of such lot. One corner lots, each lot line abutting a street shall be considered a separate street frontage. The maximum area of any one sign shall not exceed three hundred (300) square feet.
 - 4) No sign shall be located in any yard and no sign shall be permitted to project more than six inches into the public right-of-way.
 - 5) No sign shall be located on the roof of a building and if a sign is attached to a wall of a building or if it is free standing, it shall not project higher than the point where the wall joins the roof of the building.

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Chapter 14

ZONING ORDINANCE

Sec. 7. C-2 – GENERAL COMMERCIAL DISTRICT

The District is composed of land used for commercial establishments that should be located on the periphery of the community with direct or convenient access to major streets or highways.

a. Permitted Uses

- 1) All Permitted Uses that may be located in the C-1 Central Commercial District
- 2) Amusement establishments including bowling alleys, skating rinks, and similar uses
- 3) Animal hospitals
- 4) Automobile service stations
- 5) Building material sales
- 6) Garages for the storage, repair, and servicing of motor vehicles
- 7) Kennels
- 8) Hotels and motels
- 9) Landscaping Material Sales
- 10) Machinery sales
- 11) Motor vehicle sales
- 12) Parcel delivery stations
- 13) Parking lots for the storage of motor vehicles of not over one and one-half (1½) ton capacity
- 14) Other uses similar in character to the uses listed above when approved in writing by the Zoning Enforcement Officer

b. Special Uses

- 1) All Special Uses that may be located in the C-1 Central Commercial District
- 2) Adult entertainment establishments provided that the same restrictions contained in Sec. **6. C-1 Central Commercial District** are adhered to.
- 3) Contractors and construction establishments including outdoor storage of equipment and materials
- 4) Parking lots for the storage of motor vehicles of over one and one-half (1½) ton capacity
- 5) Motor freight terminals
- 6) Storage, warehousing and wholesale establishments
- 7) Any establishment engaged in the production, processing, assembly, disassembly, cleaning, servicing, testing, repair, or storage of material, goods, or products.
- 8) Other Special Uses as outlined in Article III, Section 9
- 9) Expansion of a nonconforming use, building or structure.

c. Height Regulations

No structure shall exceed thirty-five (35) feet or two and one-half (2½) stories in height.

d. Minimum Lot Area, Frontage, and Yard Regulations

- 1) Lot area – there shall be no minimum lot area required
- 2) Lot width – 100 feet

Chapter 14

ZONING ORDINANCE

- 3) Yards
 - i. Front yard – 40 feet
 - ii. Side yard – 10 feet
 - iii. Rear yard – 20 feet

e. Signs

All sign regulations contained in Section 6.6, paragraph (E) (1) and (2) shall apply to property contained in the C-2 General Business District except that the following regulations shall also apply:

- 1) Only one sign which is affixed to a building, painted on a building or is free standing shall be permitted on any lot having 75 feet of frontage or less on a public street.
- 2) On a lot having more than 75 feet of frontage, one additional sign shall be permitted for each 75 feet of additional frontage.
- 3) A sign attached to a building wall may project up to six feet from the wall.
- 4) A sign not attached to a building shall be located not less than ten (10) feet from a lot line abutting a street, or five (5) feet from a rear or side lot line.
- 5) A sign shall project not more than 30 feet above the average grade of the ground at the sign structure, except that a sign located within 3,000 feet of the center of an Interstate Highway interchange may project up to 70 feet above ground level.
- 6) Signs may be located within required yards; however, any sign located nearer than 50 feet to the intersection of two streets, or any sign located nearer than three (3) feet from a sidewalk, driveway, or parking lot entrance or exit shall have the display surface not less than twelve (12) feet above the highest grade of the adjacent street, walk, or driveway.

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Chapter 14

ZONING ORDINANCE

Sec. 8 P – PUBLIC USE DISTRICT

This District is composed of land used for a wide variety of public uses located wherever they are needed to serve the needs of the public provided that such uses are compatible with the surrounding area.

a. Permitted Uses

- 1) Educational, recreational, and institutional uses such as cemeteries, churches, temples, synagogues, convents, seminaries, monasteries, nunneries, golf courses, parks, playgrounds, and schools.
- 2) Public Service Uses such as electric and telephone substations and distributions centers, gas regulator stations, compressor stations, equipment filtration plants, pumping stations, water reservoirs, police and fire stations, telephone exchanges, radio and television transmitting or relay stations, and antenna towers.
- 3) Other governmental uses and public utility service uses.

b. Special Uses

- 1) Convalescent, nursing, and rest homes
- 2) Hospitals and sanitariums
- 3) Institutions for the care of the aged and/or children
- 4) Other Special Uses as outlined in Article III, Section 9
- 5) Expansion of a nonconforming use building or structure.

c. Height Regulations – No structure shall exceed thirty-five (35) feet or two and one-half (2½) stories in height.

d. Minimum Lot Area, Frontage, and Yard Regulations

- 1) Lot area – there shall be no minimum lot area required.
- 2) Lot width – 60 feet
- 3) Yards
 - i. Front yard – 25 feet
 - ii. Side yard – 6 feet
 - iii. Rear yard – 25 feet

e. Signs

- 1) Identification signs not exceeding a total sign area of one hundred (100) square feet shall be permitted on each lot provided that the signs shall be located in accordance with the standards set forth in Section 6.7, Paragraph (E), subparagraphs (4), (5), and (6) of this Ordinance.
- 2) Signs may be mounted flush with the wall of a building or erected as a free-standing sign.
- 3) Signs specifically authorized by ordinance for a public purpose are exempt from these standards and may be of any type, number, height, location, or illumination that may be specified by said ordinance.

Chapter 14

ZONING ORDINANCE

Sec. 9 M-1 – RESTRICTED MANUFACTURING DISTRICT

This District is composed of land used for industrial and manufacturing uses with an absence of objectionable external effects and should be located on the periphery of the community with direct or convenient access to major streets or highways.

a. Permitted Uses

- 1) Bulk storage and distribution plants
- 2) Cartage and express facilities
- 3) Contractor's office, shop, or yard
- 4) Fertilizer and feed sales and storage
- 5) Furniture and fixtures industries
- 6) Grain storage elevators
- 7) Lumberyards
- 8) Machine shops
- 9) Metal products manufacturing
- 10) Solar Farms
- 11) Other uses of the same general character as above when approved in writing by the Zoning Enforcement Officer.

b. Special Uses

- 1) Airports and landing fields
- 2) Crematories
- 3) Mining, quarrying
- 4) Refuse disposal services
- 5) Recycling services
- 6) Solid waste disposal area
- 7) Temporary buildings, both incidental and necessary for construction, for period of not more than six (6) months
- 8) All permitted and special permitted uses in the C Commercial Districts
- 9) Other Special Uses as outlined in Article III, Section 9
- 10) Other uses of the same general character as above

c. Height Regulations

No structure shall exceed forty-five feet (45') or four (4) stories in height. Grain elevators are exempted from the height restrictions of this section.

d. Minimum Lot Area, Frontage, and Yard Regulations

- 1) Lot area – there shall be no minimum lot area required.
- 2) Lot width – 100 feet
- 3) Yards
 - i. Front yard – 40 feet
 - ii. Side yard - 10 feet

Chapter 14

ZONING ORDINANCE

iii. Rear yard - 20 feet

e. Signs

All sign regulations contained in Section 7, paragraph (e) shall apply to property contained in the M-1 Restricted Manufacturing District.

f. Exceptions When Abutting Residential Districts

- 1) Enclosed Operation – Within two hundred feet (200') of residence district boundary lines, all operations for establishments engaged in production, processing, assembling, disassembling, cleaning, servicing, testing, repairing, or storage of materials, goods, or products, except accessory off street parking for vehicles in operable condition, shall be within completely enclosed buildings.
- 2) Outdoor Storage – Outdoor storage is permitted in rear yards only, and then only if completely screened by a solid wall or plantings at least eight feet (8') in height. Open storage shall not be of greater height than that of the enclosing fence or plantings.

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Chapter 14

ZONING ORDINANCE

Sec. 10 M-2 – GENERAL MANUFACTURING DISTRICT

This District is composed of land used for more intense industrial and manufacturing uses which generally exhibit higher levels of objectionable external effects. This district should not be located adjacent to residential districts and its contiguity to commercial and business areas should, wherever possible, should be avoided and should be located on the periphery of the community with direct or convenient access to major streets or highways.

a. Permitted Uses

- 1) All permitted uses in the M-1, Restricted Manufacturing District
- 2) Automobile salvage and junk yards
- 3) Chemical industries
- 4) Concrete products manufacturing
- 5) Feed milling and processing
- 6) Food products manufacturing
- 7) Petroleum refining
- 8) Radioactive materials laboratory
- 9) Wind Farms
- 10) Other uses of the same general character as above when approved by the Zoning Enforcement Officer.

b. Special Uses

- 1) Airports and landing fields
- 2) Asphaltic concrete plants
- 3) Crematories
- 4) Mining, quarrying
- 5) Temporary buildings, both incidental and necessary for construction, for a period of not more than six (6) months
- 6) All Special Uses in the M-1, Restricted Manufacturing District
- 7) Other uses as outlined in Article III, Section 9
- 8) Other uses of the same general character as above

c. Height Regulations

No structure shall exceed forty-five feet (45') or four (4) stories in height. Grain Elevators and wind turbines are exempted from the height restrictions of this section.

d. Minimum Lot Area, Frontage, and Yard Regulations

- 1) Lot area – there shall be no minimum lot area required.
- 2) Lot width – 100 feet
- 4) Yards
 - i. Front yard – 40 feet
 - ii. Side yard - 10 feet

Chapter 14

ZONING ORDINANCE

iii. Rear yard - 20 feet

e. Signs

All sign regulations contained in Section 7, paragraph (e) shall apply to property contained in the M-2 General Manufacturing District.

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Chapter 14

ZONING ORDINANCE

Article VI. OFF-STREET PARKING AND LOADING

Sec. 1. PURPOSE AND INTENT

The following regulations are established to increase safety on the public streets and lessen congestion by regulating the location of parking on private property. In connection with any building hereafter erected, altered, or enlarged, or any parking lot hereafter installed, there shall be off-street parking and loading areas provided meeting all of the minimum requirements of this Article.

Sec. 2. GENERAL PROVISIONS

- a. Nothing in this Article shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities provided that all requirements of this Ordinance are met.
- b. When any building or use is restored after being damaged by fire or other cause to the extent that the cost of restoration exceeds fifty (50) percent of its value, there shall be provided the off-street parking and loading facilities required by this Ordinance.
- c. Whenever the existing use of land or a building that was established prior to the effective date of this Ordinance is changed to a new use, off-street parking or loading facilities to be provided shall be calculated by subtracting the number of spaces required by the old use from the number of spaces required by the new use.

Sec. 3. OFF-STREET PARKING

- a. Any owner of camping or recreational equipment may park or store such equipment in any residence district subject to the following conditions:
 - 1) Such equipment shall not be occupied or used for dining, sleeping, or housekeeping purposes; and
 - 2) Such equipment shall be stored in an accessory building or on the lot provided that the equipment shall not be stored or parked in the required front yard.
- b. In the R-1, R-2, and R-3 Districts, no off-street parking shall be permitted in the front yard except on approved driveways of one- and two-family dwellings.
- c. All parking lots and all driveways leading to parking lots shall be paved with an appropriate thickness of bituminous concrete, portland cement, asphalt, permeable pavement or other dust free material as approved by the Zoning Enforcement Officer.
- d. All parking lots shall be sloped so as to prevent surface water from running onto adjoining property or public streets in unreasonable volumes.

Chapter 14

ZONING ORDINANCE

- e. Each parking space shall have a direct access to an aisle, driveway, or other public way of such width as to provide a safe means of access and egress at all times. The dimensions of each parking space shall be not less than nine (9) feet by nineteen (19) feet.
- f. The following are the minimum off-street parking requirements for the land use categories authorized by this Ordinance.
 - 1) Amusement and Recreational Uses - one-fourth ($\frac{1}{4}$) of the maximum occupancy load or one (1) parking space for every two hundred (200) square feet of floor area, whichever is greater.
 - 2) Religious Facilities - one (1) parking space for each two persons employed on the premises and one additional parking space for each six seats in the main auditorium.
 - 3) Governmental Uses - one (1) parking space for each two hundred (200) square feet of floor area.
 - 4) Eating and Drinking Establishments
 - i. Drinking Establishments - one (1) parking space for each fifty (50) square feet of floor area.
 - ii. Eating Establishments - one (1) parking space for each one hundred (100) square feet of floor area.
 - 5) Educational services - one (1) parking space for every four hundred (400) square feet of floor area
 - 6) Care of the aged or the young - one (1) parking space for every four hundred (400) square feet of floor area
 - 7) Residential uses
 - i. One- and two-family dwellings, manufactured homes and mobile homes - two (2) spaces for each dwelling unit
 - ii. Multiple family dwellings - two (2) spaces per dwelling unit.
 - iii. Rooming houses or other group quarters - one (1) space for every five hundred (500) square feet of floor area.
 - 8) Stores - one (1) space for every two hundred and fifty (250) square feet of floor area.
 - 9) Office uses
 - i. Less than one thousand two hundred (1,200) square feet of floor area - one (1) parking space for every one hundred (100) square feet of floor area but not less than five (5) spaces.
 - ii. Between one thousand two hundred (1,200) square feet of floor area and three thousand (3,000) square feet of floor area - one (1) space for every two hundred (200) square feet of floor area but not less than ten (10) spaces.
 - iii. Over three thousand (3,000) square feet of floor area - one (1) space for every three hundred (300) square feet of floor area but not less than twenty (20)

Chapter 14

ZONING ORDINANCE

spaces.

- 10) All other commercial uses - one (1) space for every six hundred (600) square feet of floor area.
- 11) Storage uses - one (1) space for every two thousand four hundred (2,400) square feet of floor area.

Sec. 4. OFF-STREET LOADING

- a. All off-street loading facilities shall be located on the same lot as the facility to be served and shall not be located within twenty-five (25) feet of the intersection of two (2) streets and shall not be located in a required front or side yard.
- b. A required loading space shall be at least ten (10) feet in width by at least twenty-five (25) feet in length and shall have a vertical clearance of at least fourteen (14) feet.
- c. Each loading space shall be served by an unobstructed vehicular access to a public street or alley.
- d. Each loading space shall be constructed of asphalt, concrete, or other dust-free material.
- e. Minimum off-street loading requirements
 - 1) Residential uses - none
 - 2) Non-residential uses

<u>Square Feet of Floor Area</u>	<u>Minimum Number of Spaces</u>
Less than 10,000	None
10,000 to 24,999	1
25,000 to 39,999	2
40,000 to 99,999	3
100,000 to 250,000	4

For each additional 200,000 square feet of floor area or fraction thereof over 250,000 square feet of floor area, one (1) additional loading space must be provided.

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Chapter 14

ZONING ORDINANCE

Article VII. ADMINISTRATION AND ENFORCEMENT

Sec. 1. ZONING ENFORCEMENT OFFICER

The Village President, with the approval of the Village Board of Trustees, shall appoint a Zoning Enforcement Officer who shall have the authority and responsibility to carry out the following duties:

- a. Notify, in writing, any person responsible for violating any of the provisions of this Ordinance, indicating the nature of the violation and indicating the action necessary to correct the violation;
- b. No building shall be erected, moved, or structurally altered, or no land or building occupied until a Certificate of Zoning Compliance has been issued by the Zoning Enforcement Officer;
- c. Issue all Special Use Permits after they are approved by the Village Board of Trustees;
- d. Conduct inspections of buildings and uses of land to determine compliance with this Ordinance;
- e. Maintain current records pertaining to applications and final disposition of map amendments, text amendments, plans, special uses, variations, and appeals;
- f. Provide information to the public concerning all matters pertaining to this Ordinance;
- g. Receive, file, and forward to the Village Clerk, all applications for appeals, special uses, variations, and amendments on which the Zoning Board of Appeals and/or the Village Board must act.

Sec. 2. ZONING BOARD OF APPEALS

- a. The Village President, with the approval of the Village Board of Trustees, shall appoint a Zoning Board of Appeals consisting of seven (7) members who reside within the Village. The terms of the members shall be: one (1) member for one (1) year, one (1) member for two (2) years, one (1) member for three (3) years, one (1) member for four (4) years, one (1) member of five (5) years, one (1) member for six (6) years, and one (1) member for seven (7) years. The successor to each member shall be appointed for a five (5) year term. A Chairperson shall be named at the time of the appointment.
- b. The Zoning Board of Appeals shall have the following duties and responsibilities:
 - 1) To conduct public hearings, make findings of fact, and decide appeals from any administrative order, decision, or determination made by the Zoning Enforcement Officer.
 - 2) To conduct public hearings, make findings of fact, and grant or deny applications for variations.
 - 3) To conduct public hearings, make findings of fact, and recommend to the Village Board of Trustees, the approval or disapproval of applications for Special Use Permits and amendments to the maps or text of this Ordinance.

Chapter 14

ZONING ORDINANCE

- 4) Conduct all public hearings according to the following rules:
 - i. All meetings shall be open to the public and be held at the call of the Chairperson at such time and place as the Zoning Board of Appeals may determine.
 - ii. All legal notices shall be published by the Village Clerk in a manner prescribed by law, but in any case, notice of the public hearing shall be given not less than fifteen (15) days and not more than thirty (30) days before said hearing.
- 5) Shall adopt procedures governing the conduct of public hearings and recording keeping.

Sec. 3. AMENDMENTS TO THE ZONING; DISTRICT MAP, THE TEXT OF THE ZONING ORDINANCE, OR REQUEST FOR A SPECIAL USE

- a. Initiation. Amendments to the Zoning District map or requests for a special use may be proposed by the Village Board of Trustees, owners of property, or a party to a valid purchase option contract. Amendments to the text of the Ordinance may only be proposed by the Village Board of Trustees.
- b. Procedures
 - 1) Application. All requests for Zoning District Map amendments or special uses shall be filed on a form supplied by the Village and must be submitted by the petitioner to the Zoning Enforcement Officer. The Zoning Enforcement Officer shall retain one (1) copy and submit one (1) copy to the Village Clerk.
 - 2) Public Hearing Notification. The Village Clerk shall give proper notice of the public hearing.
 - 3) Recommendations. After a public hearing is held, the Zoning Board of Appeals shall make a recommendation of approval or denial to the Village Board of Trustees. In making their recommendation, the Zone Board of Appeals shall consider:
 - i. The suitability of the property for uses authorized in the existing district;
 - ii. The suitability of the property for uses authorized by the proposed district;
 - iii. The character and type of land use of nearby property; and
 - iv. The existing zoning of nearby property.

A recommendation for approval should not be made unless it is determined that the change will be in the public interest and not solely for the benefit of the applicant.

- 4) Decisions by the Village Board of Trustees. The Village Board of Trustees, upon receiving the report and recommendation of the Zoning Board of Appeals, as an exercise of the legislative discretions vested in the corporate authority of the Village of Downs, Illinois, may grant or deny the proposal.
 - i. If the proposal is not acted upon by the Village Board of Trustees within three (3) months of the date upon which the application is received by the Village Board, it shall be deemed to have been denied unless extended by agreement with the

Chapter 14

ZONING ORDINANCE

- applicant.
- ii. In case a written protest of any proposed amendment is signed by owners of twenty (20) percent of:
 - a. the frontage to be altered;
 - b. the frontage directly opposite the frontage proposed to be altered; or
 - c. the frontage immediately adjoining or across an alley from the property to be altered; is filed with the Village Clerk, the amendment cannot be approved except on the favorable vote of two-thirds (2/3) of the members of the Village Board of Trustees.
- 5) No application for a district amendment which has been denied shall be resubmitted for a period of one (1) year from the date of the denial, unless there is clear evidence that conditions have materially changed since the denial was made.

Sec. 4. APPEALS OF A DECISION BY THE ZONING ENFORCEMENT OFFICER

The Zoning Board of Appeals shall hear and decide appeals from an order, requirement, or determination made by the Zoning Enforcement Officer.

- a. Initiation. An appeal may be initiated by the Village Board of Trustees, or any person aggrieved by any decision made by the Zoning Enforcement Officer.
- b. The appeal shall be filed with the Zoning Enforcement Officer who shall forward it to the Village Clerk for the publication of a public hearing notice as required by law.
- c. The Zoning Board of Appeals shall hold a public hearing and all of the decisions made by the Zoning Board of Appeals shall be final; however, any decision of the Zoning Board may be appealed to the Village Board.

Sec. 5. PETITIONS FOR VARIATION

The Zoning Board of Appeals may grant variations to the requirements contained in this Ordinance provided that the variation is only granted when it would be in harmony with purposes and intent of the Ordinance and only where there would be practical difficulties or hardships if the requirements were to be carried out. Under no circumstances shall the Zoning Board of Appeals grant a variation to allow a use of land or building not permissible in the zoning district involved.

- a. Initiation. An application for a variation may be initiated by any person or corporation requesting a Certificate of Zoning Compliance.
- b. Processing
 - 1) All requests for a variation shall be filed with the Zoning Enforcement Officer who shall submit a copy to the Village Clerk. The Village clerk shall publish a notice of the public hearing as required by law.

Chapter 14

ZONING ORDINANCE

- 2) No variation shall be granted until a public hearing is held by the Zoning Board of Appeals. A variation from the standards of this Ordinance shall not be granted by the Zoning Board of Appeals unless the following findings are made:
 - i. That special conditions exist which are peculiar to the land or building in question and that these conditions are not generally applicable to other property in the same zoning district;
 - ii. That literal interpretation of the requirements of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district;
 - iii. That the special conditions do not result from the actions of the applicant;
 - iv. That granting the variation will not confer on the applicant special privileges that are not available to other property owners in the same district; and
 - v. That the granting of the variations will be in harmony with the purpose and intent of this Ordinance and will not be injurious to neighboring property or detrimental to the public welfare.
- c. Decisions. All decisions of the Zoning Board of Appeals on variations shall be final; however, any decision of the Zoning Board of Appeals may be appealed to the Village Board.

Sec. 6. PENALTIES FOR VIOLATIONS

Violations of the provisions of this Ordinance, or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or who fails to comply with any of its requirements, shall, upon conviction, be fined as designated in accordance to Chapter 1, Article 1, Section 3D.

Sec. 7. SCHEDULE OF FEES

An application for a variation, amendment, or special use shall be filed with the Zoning Enforcement Officer accompanied by a fee payable to the Village of Downs, Illinois in accordance with the Village of Downs Fee Schedule.

In addition to the filing fee, the applicant may be responsible for paying the Village for the cost of publishing any public notices of any public hearing.

Adopted: June 10, 1993 via Ordinance 1993-07c

Modified: March 4, 2010 via Ordinance 2010-05

Modified: April 4, 2019 via Ordinance 2019-04

Modified: April 1, 2021 via Ordinance 2021-04