

Revised Code

CHAPTER 40

ZONING

ARTICLE I – GENERAL REGULATIONS

40-1-1 **PURPOSE.** In accordance with State law (65 ILCS 5/11-13-1, et seq.), this Zoning Code regulates structures and land uses in order to preserve, protect and promote the public health, safety, and welfare. More specifically, this Zoning Code is intended to assist in achieving the following objectives:

(A) To encourage the development of buildings and uses on appropriate sites in order to discourage development on inappropriate sites;

(B) To protect and enhance the character and stability of sound existing residential, commercial, and industrial areas, and to gradually eliminate nonconforming uses and structures;

(C) To conserve and increase the value of taxable property throughout this municipality;

(D) To ensure the provision of adequate light, air, and privacy for the occupants of all buildings;

(E) To protect property from damage caused by fire, flooding, poorly controlled storm water runoff, and adverse soil and topographical conditions;

(F) To provide adequate and well-designed parking and loading space for all buildings and uses, and to reduce vehicular congestion on the public streets and roadways;

(G) To provide for efficient administration and fair enforcement of all the regulations set forth herein; and

(H) To encourage elimination of conforming uses; and

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

40-1-2 **JURISDICTION.** This Zoning Code shall be applicable within the corporate limits of the Village of Germantown.

40-1-3 **INTERPRETATION, CONFLICT WITH OTHER ORDINANCES.** Every provision of this Zoning Code shall be construed liberally in favor of the Village and every requirement imposed herein shall be deemed minimal. Whenever the requirements of this Zoning Code differ from the requirements of any other lawfully adopted ordinances, regulation, deed restriction, or covenant, the more stringent requirement shall prevail.

40-1-4 **DISCLAIMER OF LIABILITY.**

(A) Except as may be provided otherwise by statute or ordinance, no

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officer, board member, agent, or employee of this municipality shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his/her duties under this Zoning Code, (See “Local Governmental and Governmental Employees Tort Immunity Act,” 745 ILCS 10/1-101).

(B) Any suit brought against any officer, board member, agent or employee of the Village, as a result of any act required or permitted in the discharge of his/her duties under this Zoning Code, shall be defended by the Village Attorney until the final determination of the legal proceedings.

40-1-5 **SEPARABILITY.** If any provision of this Zoning Code is declared unconstitutional or invalid by a Court of competent jurisdiction, that decision shall not affect the validity of the remainder of this Zoning Code.

40-1-6 **WHEN EFFECTIVE.** This Zoning Code shall take effect on January 1, 2008 after its final passage, approval, and publication as provided by law. (65 ILCS 5/1-2-4)

ARTICLE II – DEFINITIONS

40-2-1 **CONSTRUCTION OF TERMS.** In construing the intended meaning of terminology used in this Zoning Code, the following rules shall be observed:

(A) Words and phrases shall have the meanings respectively ascribed to them in Section 40-2-2 unless the context clearly indicates otherwise; terms not defined in Section 40-2-2 shall have their standard English dictionary meanings.

(B) Words used in the present tense shall include the future sense.

(C) Words used in the singular number shall include the plural number, and the plural the singular.

(D) The term “shall” is mandatory; the term “may” is discretionary.

(E) The words “abutting”, “adjacent” and “contiguous” shall be synonymous.

(F) All distances shall be measured to the nearest integral foot; six (6) inches or more shall be deemed one (1) foot.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

40-2-2 **SELECTED DEFINITIONS.**

Abutting: As applied to lots, “abutting” means having a common lot line or district line, or so located in relation to each other that there would be a common lot line or district line but for the existence of a street, alley or other public right-of-way.

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Access Way: A curb cut, ramp, driveway or other means for providing vehicular access to an off-street parking or loading area.

Accessory Use: Any structure or use that is:

- (a) Subordinate in size or purpose to the principal structure or use which it serves;
- (b) Necessary or contributing to the comfort and convenience of the occupants of the principal structure or use served; and
- (c) Located on the same lot as the principal structure or use served.

Administrator: The official appointed by the Village President with the advice and consent of the Village Board to administer this Zoning Code, or his/her representative (synonymous with "Zoning Administrator").

Adult: A person who has attained the age of maturity as specified by law.

Adult Entertainment Business: Any enterprise which features, for money or any other form of consideration on or more of the following: adult live entertainment, adult motion picture theatre, adult arcade, adult bookstore, adult novelty store, adult video store, a cabaret, or an adult motel.

Agriculture: Any one or any combination of the following: the growing of farm or truck garden crops, apiculture, horticulture, or floriculture. The term "agriculture" encompasses buildings occupied as residences by persons engaged in agricultural activities. In addition, it includes accessory uses and structures customarily incidental to agricultural activities. Buildings occupied as residences by persons not engaged in agriculture shall not be considered as being used for agricultural purposes, even though they are located on agricultural land; and said buildings are subject to the provisions of this Zoning Code.

Alley: A public right-of-way, which affords a secondary means of vehicular access to abutting premises that front on a nearby street.

Alter: To change the size, shape, or use of a structure.

Amendment: A change in the provisions of this Zoning Code (including those portions incorporated by reference), properly effected in accordance with State law and the procedures set forth herein.

Anchor: Any approved device to which a mobile home is tied down to keep it firmly attached to the stand on which it is placed.

Attached: As applied to buildings, "attached" means having a common wall and/or common roof.

Block: An area of land entirely bounded by streets, highways, barriers, or ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a

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street, highway, or way), or bounded by a combination of streets, public parks, cemeteries, railroad right-of-way, waterways, or corporate boundary lines.

Board of Appeals: The Board of Zoning Appeals of the Village of Germantown.

Boarding House: A residential building or portion thereof, other than a motel or hotel, containing lodging rooms for accommodation of three (3) to ten (10) persons who are not members of the keeper's family, and where lodging or meals or both are provided by the pre-arrangement and for definite periods, but not on an overnight or per-meal basis to the transient public.

Building: Any covered structure permanently affixed to land and designed or used to shelter persons or chattels.

Building Height: The vertical distance measured from the average grade at the front wall of a building to the highest point of the coping of a flat roof or to the deck line of mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs. Chimneys, towers, cooling towers, and similar projections (other than signs) shall not be included in calculating building height.

Building Line: The line nearest the front of and across a lot, delineating the minimum open space required between the front of a structure and the street right-of-way.

Certificate of Zoning Compliance, Initial: A permit issued by the Administrator indicating the proposed construction work is in conformity with the requirements of this Zoning Code and may therefore, proceed.

Certificate of Zoning Compliance, Final: A permit issued by the Administrator indicating that a newly completed structure complies with all pertinent requirements of this Zoning Code and may, therefore, be occupied or used.

Clinic: An establishment wherein licensed physicians or dentists practice medicine or dentistry, but where overnight lodging for sick or injured persons is not provided.

Club/Lodge: A non-profit association of persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

Conforming: In compliance with the applicable provisions of this Zoning Code.

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Convenience Shop: Any small retail commercial or service establishment offering goods/services primarily to the residents of a particular multiple-family complex, mobile home park, or similar development.

Corrective Action Order: A legally binding order issued by the Administrator in accordance with the procedures set forth herein to effect compliance with this Zoning Code.

Day Care Center: See “Nursery School”.

Deck: Deck means an open porch which has no roof, is generally open on the sides, is above ground level, and its intended use is for leisure enjoyment.

Detached: As applied to buildings, “detached” means surrounded by yards on the same lot as the principle building.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation thereof.

Dimensions: Refers to both lot depth and lot width.

District, Zoning: A portion of the territory wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of this Zoning Code.

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking area.

Dwelling: A building or portion thereof designed or used primarily as living quarters for one or more families, but not including hotels, motels or other accommodations for the transient public.

Dwelling, Multiple-Family: A building or portion thereof containing three (3) or more dwelling units.

Dwelling, Single-Family: A detached dwelling containing one dwelling unit and intended for the occupancy of one family.

Dwelling, Two-Family: A dwelling containing two (2) dwelling units.

Dwelling Unit: One or more rooms designed or used as living quarters by one family. A “dwelling unit” always includes a bathroom and a kitchen.

Easement: A right to use another person’s real property for certain limited purposes.

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Enclosed: As applied to a building, “enclosed” means covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings for windows and doors.

Enlarge: To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: To build, construct.

Establishments: Either of the following:

- (a) An institution, business, commercial or industrial activity that is the sole occupant of one or more buildings; or
- (b) An institution, business, commercial or industrial activity that occupies a portion of a building such that:
 - (1) The activity is a logical and separate entity from the other activities within the building and not a department of the whole; and
 - (2) The activity has either a separate entrance from the exterior of the building, or a separate entrance from a commonly and clearly defined entryway that has direct access to the exterior of the building.

Existing: Actually constructed or in operation on the effective date of this Zoning Code.

Family: A group of persons closely related by blood, marriage, or adoption living together as a single household. The term also includes: (1) an individual living alone in a dwelling or apartment; and (2) a group of not more than five persons who may or may not be related but who are living together as a single household. Domestic servants and gratuitous guests residing with a family shall be considered to be members of the family.

Fence(s): Fence means a vertical screen device used to provide privacy, visual or otherwise, or for containment. Fence includes but is not limited to trellises, railing and walls.

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of an attached building. Gross floor area includes basement floors; at floor space; halls, closets, stairwells; space devoted to mechanical equipment; and enclosed porches.

Frontage: The lineal extent of the front (street-side) of a lot.

Greenhouse: See “Nursery”.

Hereafter: Any time after the effective date of this Zoning Code.

Home Occupation: Any business, profession, or occupation conducted for gain entirely within a dwelling or on residential premises in conformity with the provisions of this Zoning Code.

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Fence: A structure serving as an enclosure, barrier, or boundary, usually made of posts, boards, wire or rails. All other materials shall require a “special use” permit prior to erection.

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center of the common walls of an attached building. Gross floor area includes basement floors; at floor space; halls, closets, stairwells; space devoted to mechanical equipment; and enclosed porches.

Foundation, Permanent: A structural building support extending from below the frost line up to the structure and made of cast in place concrete, concrete blocks mortared together or other material approved by the Zoning Administrator; said structural support shall be at least six (6) inches thick.

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Home Occupation: Any business, profession, or occupation conducted for gain entirely within a dwelling or on residential premises in conformity with the provisions of this Zoning Code.

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Immobilize: As applied to a mobile home, “immobilize” means to remove the wheels, tongue, and hitch and to place on permanent foundation.

Intersection: The point at which two or more public right-of-ways (generally streets) meet.

Junk Yard: A tract of land, including any accessory structures thereon, that is used for buying, selling, exchanging, storing, baling, packing, disassembling, or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable conditions (or parts thereof), and metals, glass, paper, plastics, rags, tires and wood. A lot on which two (2) or more inoperable vehicles are stored shall be deemed a junkyard.

Kenel: Any structure or premises or portion thereof which is used as a business, on which more than three (3) dogs over four (4) months of age are kept.

Landfill: A lot or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewerage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

Laundries:

- (a) **Laundromat:** A business that provides home-type washing, drying and ironing machines for hire to be used by the customers on the premises.
- (b) **Commercial Industrial Laundry:** A business that provides washing, drying and ironing services operated by an employee on the premises.

Loading Space: An off-street space used for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Lot: A tract of land intended as a unit for the purpose (whether immediate or future) of transfer of ownership or development. A “lot” may or may not coincide with a “lot of record”.

Lot Corner: A lot having at least two (2) adjacent sides that abuts for their full length upon streets. Both such sidelines shall be deemed front lot lines.

Lot, Through: A lot having a pair of approximately parallel lot lines that abut two (2) approximately parallel streets. Both such lot lines shall be deemed front lot lines.

Lot Coverage: The portion of a lot that is occupied by buildings or structures, including accessory buildings or structures.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot.

Lot Line, Rear: An interior lot line, which is most distant from and most nearly parallel to the front lot line.

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Lot Line, Side: Any boundary of a lot, which is not, a front lot line or a rear lot line.

Lot Size Requirements: Refers to the lot area, width, and depth requirements of the applicable district.

Lot Width: The mean horizontal width of a lot measured at right angles to the side lot lines.

Maintenance: The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep said structure in sound condition.

Mobile Home: A manufactured structure designed to permit its transport on its own wheels, containing complete kitchen and sanitary facilities, and used as a long-term dwelling by one family.

Mobile Home Park: A parcel no less than two (2) acres in area in single ownership/control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of this Zoning Code.

Mobile Home Stand: The part of a mobile home space beneath the mobile home that includes the concrete slab or runners on which the home is placed.

Nonconforming: As applied to a lot, structure, or use, “nonconforming” means (1) lawfully existing on the effective date of this Zoning Code; but (2) not in compliance with the applicable provisions thereof.

Nuisance: Any thing, condition, or conduct that endangers health, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

Nursery: A tract of land on which trees, shrubs, and other plants are raised for transplanting and sale, and including any structure in which said activities are conducted.

Nursery School: An establishment for the part-time care and/or instruction at any time of day of four (4) or more unrelated children of pre-elementary school age.

Nursing Home: A building used as a medical care facility for persons who need long-term nursing care, assisted living, and medical service, but do not require intensive hospital care.

Office: Any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

Parking Area/Lot, Off Street: Land that is improved in accordance with this Zoning Code and used primarily for the storage of passenger motor vehicles, free of charge or for

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compensation. An “off-street parking area”, depending on circumstances of its use, may be either a principal use or an accessory use.

Parking Space, Off-Street: An area at least eighteen (18) feet long and nine (9) feet wide within an off-street parking area or garage, used for the storage of one passenger motor vehicle.

Patio: Patio means an at-grade-paved area without walls, usually adjacent to a building and its intended use is an outdoor lounging, dining, or entertainment area.

Permitted Use: Any use which is or may be lawfully established in a particular district(s), provided it conforms with all the requirements applicable to said district(s).

Person: Any individual, firm association, organization, or corporate body.

Plot: A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

Porch: Porch means a structure attached to a building to shelter an entrance or to serve a semi-enclosed space, usually covered with a roof and open-sided, and usually large enough to allow seating devices.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or near the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Property Line: See “Lot Line”.

Reconstruct: As applied to nonconforming structures, “reconstruct” means to rebuild after partial or total destruction.

Recreational Vehicle: A term encompassing any type of vehicle used primarily for pleasure such as travel trailers, motor homes, boats, snowmobiles, etc.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to construct.

Restrictive: Tending to keep within prescribed limits.

Retail: Refers to the sale of goods or services directly to the consumer rather than to another business.

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Person: Any individual, firm association, organization, or corporate body.

Plot: A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or by metes and bounds.

Porch: Porch means a structure attached to a building to shelter an entrance or to serve a semi-enclosed space, usually covered with a roof and open-sided, and usually large enough to allow seating devices.

Portable Storage Unit: Any temporary, transportable, moveable, mobile, transferable, storage container. Portable storage units include any and all shipping containers for rail, trucking, air, etc. Any container manufactured for use as a temporary, transportable, moveable, mobile, or transferable storage container does not lose its status as a portable storage unit by affixing it to real estate.

Premises: A lot and all the structures and uses thereon.

Principal Building/Structure/Use: The main structure erected on or near the main use occupying a lot, as distinguished from an accessory (subordinate) structure or use.

Property Line: See "Lot Line".

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after partial or total destruction.

Recreational Vehicle: A term encompassing any type of vehicle used primarily for pleasure such as travel trailers, motor homes, boats, snowmobiles, etc.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to construct.

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Restrictive: Tending to keep within prescribed limits.

Retail: Refers to the sale of goods or services directly to the consumer rather than to another business.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to the Village or to another unit of government for streets and alleys.

Screening: Trees, shrubs, walls, solid fences, etc., used as a means of visual and noise control.

Service Station: A building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil, and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

Service Use/Establishment: Any use or establishment wherein services are provided for remuneration either to individuals or to other firms.

Setback: The distance between the front lot line and the building line; or between a side or rear lot line and that side of the structure which faces such lot line; or between the appropriate lot line and the nearest boundary of the area of operation which is approximately parallel to such lot line.

Setback Line: See "Building Line".

Signs: Any inscription written, printed, painted, or otherwise placed on a board, plate, banner or upon any material, object or device whatsoever, which by reason of its form, color, wording or otherwise, attracts or is designed to attract attention to the subject thereof or is used as a means of identification, advertisement or announcement. As used in this Zoning Code, the term shall apply only to signs which attract attention to the sign from outside of a building or structure. Signs are only allowed in Industrial and Commercial Districts (with the exception of home occupation signs as covered in Section 40-5-4) and may be no larger than fifty (50) square feet in size.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

Special Use: A use that has unusual operational, physical, or other characteristics which distinguish it from the permitted uses of a district, but which can be made compatible with the intended overall development within a district. Special uses commonly must meet special standards not necessarily applicable to permitted uses in the district, and are allowed only by permit.

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Special Use Permit: A permit issued in accordance with the provisions of this Zoning Code to regulate development of a special use.

Stable: A structure, situated on the same lot as a dwelling, and designed or used for housing horses for the private use of occupants of the dwelling, but not for hire.

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Stop Work Order: A type of corrective action order used by the Administrator to halt work in progress that is in violation of this Zoning Code.

Street: A public or private way for motor vehicle travel. The term “street” includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court, and similar designations, but excludes an alley or a way for pedestrian use only.

Street, Private: Any street providing access to abutting property that is not maintained by and dedicated to the Village or other public entity.

Structure: Anything constructed or erected on the ground, or attached to something having a fixed location on the ground. All buildings are structures, but not all structures are buildings.

Structure, Temporary: Any structure that is not attached to a permanent foundation.

Temporary Hardship: To sustain loss or damage caused by fire or act of God to a permanent dwelling.

Temporary Use Permit: A permit issued in accordance with the provisions of this Zoning Code and valid for not more than one (1) year, which allows the erection/occupation of a temporary structure or the operation of a temporary enterprise.

Topography: The relief features or surface configuration of an area.

Travel Trailer Park: A lot developed with facilities for accommodating temporarily occupied travel trailers in accordance with the requirements of this Zoning Code.

Use: The purpose or activity for which land or a structure thereon is designed, occupied, or used.

Use Variance: A type of amendment (not variance) that allows a use in a district where said use would not be allowed under existing provisions of this Zoning Code.

Utility Substation: A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

Variance: A relaxation of the strict application of the lot size, setbacks or other bulk requirements applicable to a particular lot or structure.

Visual Inspection: Perceptible by the mind either in person, quality photos or video images.

Wholesale: Refers to the sale of goods or services by one business to another business.

Yard: Open space that is unobstructed except as specifically permitted in this Zoning Code and that is located on the same lot as the principal building.

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Yard, Front: A yard which is bounded by the side lot lines, front lot lines, and building line.

Yard, Rear: A yard which is bounded by side lot lines, rear lot lines, and rear yard line.

Yard, Side: A yard which is bounded by the rear yard line, front yard line, side yard line, and side lot line.

Yard Line: A line in a lot that is parallel to the lot line along which the yard in question extends and which is not nearer to such lot line at any point than the required depth or width of said yard.

Zoning Map: The map(s) and any amendments thereto designating zoning districts, and incorporated into this Zoning Code by reference.

ARTICLE III – GENERAL ZONING REGULATIONS

40-3-1 **ESTABLISHMENT OF DISTRICTS.** In order to implement the regulatory scheme of this Zoning Code so as to achieve the objectives enumerated at Section 40-1-1, the Village of Germantown is hereby divided into the following zoning districts:

<u>District</u>	<u>Designation</u>	<u>Minimum Zone District Area*</u>
Agricultural	A	3 acres
Single-Family Residential	R-1	1 acre
Multi Family Unit	R-2	2 acres
Mobile Home District	- - -	2 acres
Commercial	C-1	1 acre
Industrial	I	1 acre

*The “minimum area” requirement (which is intended to prevent spot zoning) refers to the smallest total area of contiguous parcels that can properly be given the particular district classification. The minimum area requirement is not satisfied merely because the areas of numerous noncontiguous parcels, when aggregated, happen to equal or exceed the minimum area indicated above.

40-3-2 **ZONING MAP AND DISTRICT BOUNDARIES.** The boundaries of the listed zoning districts are hereby established as shown on the official zoning map of the Village of Germantown. This official map, including all notations and other information

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thereon, is hereby made a part of this Zoning Code by reference. The official zoning map shall be kept on file in the Village Clerk's office.

(A) **ANNUAL PUBLICATION.** In accordance with State Law (65 ILCS 5/11-13-19) if any changes are made in the zoning districts or regulations during a fiscal year, the Administrator shall publish the revised zoning map not later than March 31st of each year. However, no map shall be published for any fiscal year during which there have been no changes in zoning districts or regulations.

(B) **DETERMINING TERRITORY OF DISTRICTS WITH PRECISION.** In determining with precision what territory is actually included within any zoning district, the Administrator shall apply the following rules:

- (1) Where a district boundary as indicated on the zoning map approximately follows any of the features listed below on the left, the corresponding feature on the right shall be deemed the district boundary.

Center line of any street, alley or highway... such center line.

Lot line..... such lot line.

Railroad tracks.....right-of-way line of such tracks.

Stream.....center of such stream.

Section lines, fractional lines, survey lines... such lines.

- (2) Whenever any street, alley, or other public way is legally vacated, the zoning districts adjoining each side of such vacated public way shall automatically extend to the center of such way, and all territory included in the vacated way shall thereafter be subject to all regulations of extended districts.

(C) **ANNEXED TERRITORY.** Upon the effective date of this Zoning Code, whenever any territory is annexed to this Municipality, the Village Board shall determine its district classification at the time of annexation.

40-3-3 GENERAL PROHIBITION. Hereafter, within the zoning jurisdiction of the Village of Germantown, it shall be unlawful to:

- (A) Erect, use, occupy, enlarge, alter, relocate, or reconstruct any structure or part thereof;
- (B) Create any lot; or
- (C) Use, occupy or develop any lot or part thereof; except in conformity with the provisions of this Zoning Code.

40-3-4 UNLISTED USES PROHIBITED. Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district. However, if the Village Board, following consultation with the Administrator, finds that the unlisted use is similar to and compatible with the listed uses, they may allow such use by amending the Zoning Code in accordance with Section 40-10-3. The Village Board's decision shall become a permanent public record, and any

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unlisted use that they approve shall thereafter have the same status as listed special uses.

40-3-5 **MEETING MINIMUM REQUIREMENTS.** Except as specifically provided otherwise elsewhere in this Zoning Code, every lot must meet the minimum area, minimum dimensions, and minimum setback requirements of the district in which it is located independently; that is, without counting any portion of an abutting lot.

40-3-6 **ACCESS REQUIRED.** No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or a private street.

40-3-7 **FRONT SETBACKS – CORNER/THROUGH LOTS.** Every lot with multiple frontages (such as corner or through lots) shall meet the front setback requirements of the district in which it is located on every side having frontage.

40-3-8 **FRONT SETBACKS IN CERTAIN BUILT-UP AREAS.** Except as specifically provided otherwise, in all residential zoning districts lots having fifty percent (50%) or more of the frontage on one side of a street between intersections and are developed with buildings, and the front setbacks of those lots do not differ by more than ten (10) feet, the minimum required front setbacks on that block shall be the average of the existing front setbacks; provided, however, that in any built-up area, no front setback greater than fifty (50) feet shall be required.

40-3-9 **INTRUSIONS INTO YARDS.** To the extent indicated below, the following feature of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

<u>Feature</u>	<u>Maximum Intrusion</u>
(a) Cornices, chimneys, planters or similar architectural features	Two (2) feet
(b) Fire escapes	Four (4) feet
(c) Patios	No limit
(d) Porches, if enclosed and at ground level	Six (6) feet
(e) Balconies	Four (4) feet
(f) Canopies, roof overhangs	Four (4) feet

40-3-10 **EXCEPTIONS TO HEIGHT LIMITS.**

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(A) Necessary Appurtenances: Chimneys, church spires, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations of the district in which they are located if they comply with all other pertinent Village ordinances.

(B) Intersections: On corner lots, in the triangular portion of land bounded by the street lines of such corner lots and a line joining the two points each of which is on one street line and thirty (30) feet from the point of intersection, no visual obstruction, whether natural or man-made, shall intrude into the air space that is between two (2) and ten (10) feet above the level of the adjacent street. (See Figure 1.)

40-3-11 UTILITIES. In all districts, property owners shall comply with the utility Code sections.

40-3-12 ACCESSORY USES.

(A) Any accessory use shall be permitted in a given zone district if such use:

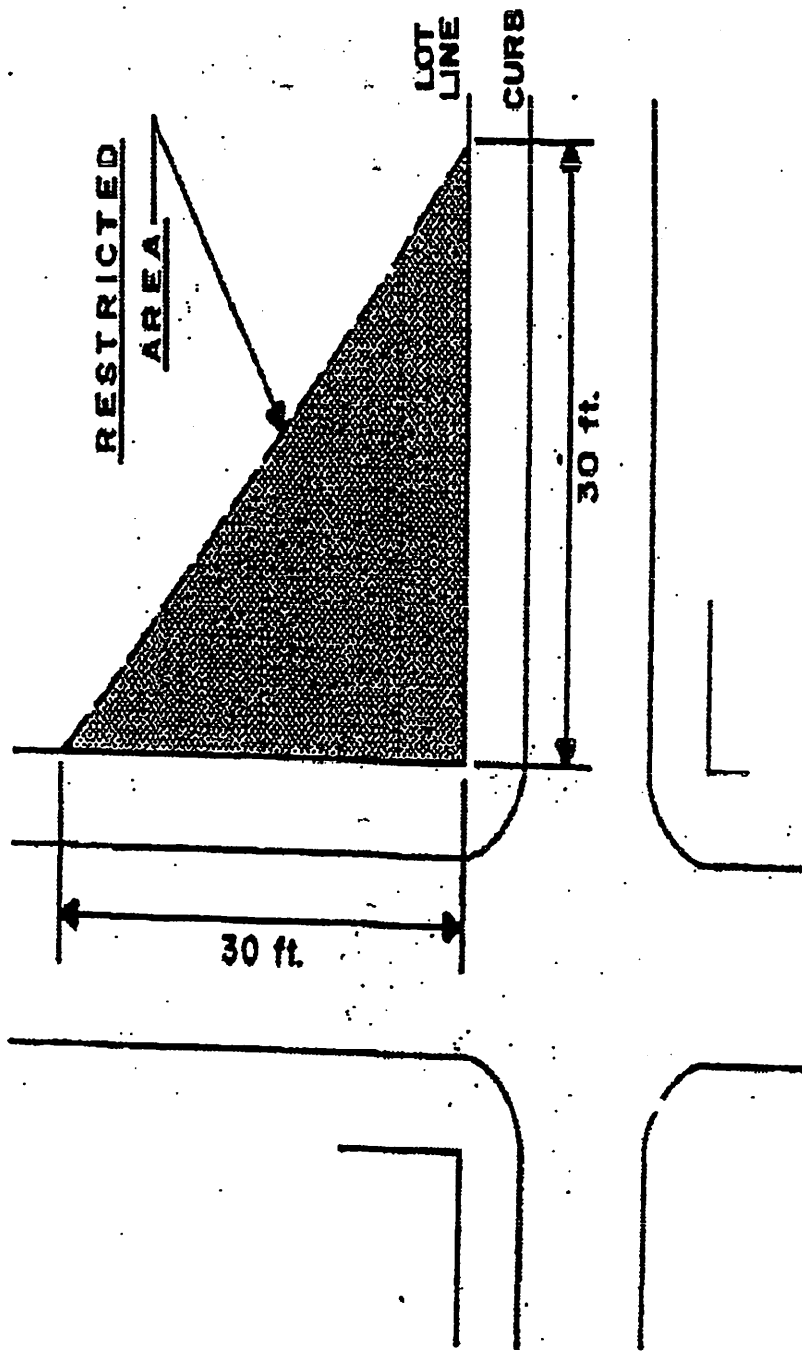
- (1) Meets the definition of "accessory use" found in Section 40-2-2;
- (2) Is necessary or contributes to the comfort and convenience of the occupants (whether individuals or a commercial enterprise) of the principal structure or use served;
- (3) Is located on the same lot and is subordinate in size to the principal structure or use served; and
- (4) Is in compliance with restrictions set forth in Section 40-3-12(B).

If an accessory use is attached to the principal structure, it shall be considered part of such structure.

(B) ACCESSORY USE RESTRICTIONS.

- (1) Height. No accessory use shall be higher than:
 - (a) Twenty (20) feet in any residential district; or
 - (b) Twenty-five (25) feet in any other zoning district except the Agricultural District where, due to the special needs of farmers, there shall be no height limit on accessory structures.
- (2) Setbacks. No accessory use in any zoning district shall be located in any part of any yard (front, side or rear) that is required because of the setback regulations of such district, except in Single Family Districts (R-1) and Two-Family Districts (R-2) where a fence may be placed with a minimum setback of two (2) feet of any side or rear lot line and two (2) feet from any front lot line, Village street right-of-way, sidewalk, or street curbing, whichever is farthest from the front lot line. In addition, in areas near street intersections,

FIGURE 1



NOTE: 2' HEIGHT LIMIT ON FENCES, WALLS,
AND HEDGES IN RESTRICTED AREA.

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special height restrictions may be applicable to fences, walls and other obstructions.

(3) Yard Coverage: In any residential district, accessory uses shall not cover more than thirty percent (30%) of a required rear yard.

(4) Use as Dwelling: Use of any accessory structure as a dwelling is strictly prohibited throughout the zoning jurisdiction of the Village of Germantown.

(5) Accessory Structures Allowed: Only two (2) accessory use structures per dwelling are allowed, and the combined square footage of the ground floor of both accessory use structures cannot be greater than the square footage of the ground floor of the principal dwelling.

(C)

ACCESSORY BUILDINGS.

(1) Accessory buildings which are less than **one hundred twenty (120) square feet** in size do not require a building permit, do not require placement on a concrete pad, and do not require that said building be similar in color, material, and design as principal structure.

(2) Accessory buildings which are between one hundred twenty (120) square feet and two hundred (200) **square feet** in size require a building permit prior to construction or placement. must be placed and affixed on a concrete pad, a four (4) inch rock pad, or affixed to a permanent foundation. Said building, if on a rock pad or concrete pad, must also be anchored to the ground to enable it to withstand a 60 mph wind; and must be similar in color, material and design as principal structure.

(3) Accessory buildings which are more than **two hundred and one (201) square feet** in size require a building permit prior to construction or placement. must be affixed to a permanent foundation (no portable buildings in excess of two hundred and one (201) square feet are allowed as an accessory building), and must be similar in color, material and design as principal structure.

(4) Any accessory building placed on a concrete pad or permanent foundation requires a permit.

ARTICLE IV – REGULATIONS FOR SPECIFIC DISTRICTS

40-4-1 "A" AGRICULTURAL DISTRICT. The "A" Agricultural District encompasses areas that are undeveloped or sparsely developed and that, for various reasons, should remain so for the foreseeable future. Some tracts of land in this district are fertile and relatively level, and best suited for agricultural pursuits.

Agricultural Exemption. The provisions of this Zoning Code shall not be exercised so as to impose regulations with respect to land used or to be used for agricultural purposes,

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or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or intended to be used for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes shall be required to conform to building setback lines. In the event that the land ceases to be used solely for agricultural purposes, then and only then shall the provisions of this code apply.

(A) **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "A" District shall conform to the following requirements:

Minimum Lot Area: One-fourth (1/4) acre

Minimum Lot Width: Eighty (80) feet at the established building line

Minimum Lot Depth: One hundred (100) feet

Minimum Setbacks:

From front lot line: Thirty (30) feet

From either side lot line: Ten (10) feet

From rear lot line: Forty (40) feet

From side yard abutting street Twenty-five (25) feet

(1) **ONE DWELLING ON ONE LOT.** In the "A" District, only one dwelling shall be erected on any lot.

(2) **PERMITTED USES:**

Agriculture, including all uses commonly classified as such, provided the requirements of Section 40-5-2 are met.

Government uses of the Village of Germantown.

Nurseries, greenhouses, temporary produce stands.

Parks, playgrounds.

Single-family dwellings.

Accessory uses in accordance with Section 40-3-12.

(3) **SPECIAL USES:**

Agricultural related sales establishments.

Animal hospitals.

Blacksmith and welding shops.

Cemeteries.

Churches and other places of formal worship.

Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.

Commercial grain elevators and storage facilities.

Golf courses, regulation size.

Government uses other than those of the Village of Germantown.

Home occupations.

Institutions such as convents, retreat houses, seminaries, etc.

Junk/Salvage yards.

Kennels, commercial.

Landfills.

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Nursing homes, sanitariums.

Stables, commercial.

Temporary non-farm dwellings, including mobile homes, on the same lot as another principal use.

Travel trailer parks.

Utility substations.

40-4-2 **"R-1" SINGLE-FAMILY RESIDENCE DISTRICT.** The "R-1" Single-Family Residential District encompasses those areas which are primarily developed with or planned for conventionally constructed single-family dwellings. Other types of residences are strictly prohibited in this district, with the exception of those listed in Section 40-4-2(D) when a Special Use permit is granted.

(A) **SPECIAL RESTRICTIONS:**

(1) **One Principal Building Per Lot:** In the "R-1" District, only one principal building shall be erected on any lot.

(2) **Mobile Homes Restrictions:**

(a) No mobile home shall be brought into or placed anywhere in the "R-1" District except as a replacement for a current mobile home on the same lot as the current mobile home and in accordance with this

Subsection (2).

(b) It shall be unlawful to replace any existing mobile home located in the "R-1" District without proper application and approval by the Zoning Board and Village Board.

(c) All replacement mobile homes must be less than three years old and must pass a visual inspection by the Zoning Board and Village Board.

(d) **Same Lot Size/Setbacks.** No mobile home shall be placed on any individual lot unless the district's lot size and setback requirements are strictly observed.

(e) **Permanent Foundation.** Mobile homes shall be installed to the Illinois Manufactured Home Tie-Down Code (77 Illinois Administrative Code 870).

(f) **Anchors.** Anchors capable of withstanding a vertical tension force of four thousand eight hundred (4,800) pounds shall be installed at the corners of every mobile home stand or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors.

(B) **LOT AND BUILDING REQUIREMENTS:***

Minimum Lot Area:

Five thousand (5,000) square feet

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<u>Minimum Lot Width:</u>	Fifty (50) feet at the established building line
<u>Minimum Lot Depth:</u>	One hundred (100) feet
<u>Minimum Setbacks:</u>	
<u>For Principal Buildings:</u>	
From front lot line:	Twenty-five (25) feet
From either side lot line:	Ten (10) feet
From rear lot line:	Fifteen (15) feet
For side yard abutting street	Twenty-five (25) feet
<u>For Accessory Buildings:</u>	
From front lot line:	Twenty-five (25) feet
From either side lot line:	Five (15) feet
From rear lot line:	Five (5) feet
From side yard abutting street:	Twenty-five (25) feet
<u>Maximum Building Height:</u>	Thirty-five (35) feet
*Applies to principal building	

(C)

PERMITTED USES:

Agriculture, including all agricultural uses defined in Section 40-2-2, provided the requirements of Section 40-5-2 are met.

Churches and related religious facilities.

Government uses of the Village of Germantown.

Parks, playgrounds.

Single-family dwellings, conventionally constructed.

Accessory uses in accordance with Section 40-3-12.

(D) **SPECIAL USES:**

Cemeteries.

Educational facilities.

Government uses other than those of the Village of Germantown.

Multi-family dwellings.

Home Occupations, but only in conformity with the requirements of Section 40-5-4.

Recreational facilities.

Utility substations, except cell phone towers which are not allowed in the R-1 district.

Temporary non-farm dwellings, excluding mobile homes, on the same lot as another principal use.

40-4-3

"R-2" TWO-FAMILY RESIDENCE DISTRICT.

In the "R-2" Two-Family Residence District, land is principally used for or is best suited for detached, conventionally constructed, two-family dwellings and related educational, religious and recreational facilities. The regulations for this district are intended to stabilize and preserve sound existing two-family neighborhoods, and to promote the development of subdivisions

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offering a range of new conventionally constructed two-family housing. Other type of residences (mobile homes, apartments, etc.) are strictly prohibited in this district.

(A) **SPECIAL RESTRICTIONS.**

(1) **One Principal Building Per Lot:** In the "R-2" District, only one (1) principal building shall be situated on any one (1) lot.

(2) **Mobile Homes Restrictions:**

(a) No mobile home shall be brought into or placed anywhere in the "R-2" District except as a replacement for a current mobile home on the same lot as the current mobile home and in accordance with this

Subsection (2).

- (b) It shall be unlawful to replace any existing mobile home located in the "R-2" District without proper application and approval by the Zoning Board and Village Board.
- (c) All replacement mobile homes must be less than three years old and must pass a visual inspection by the Zoning Board and Village Board.
- (d) Same Lot Size/Setbacks. No mobile home shall be placed on any individual lot unless the district's lot size and setback requirements are strictly observed.
- (e) Permanent Foundation. Mobile homes shall be installed to the Illinois Manufactured Home Tie-Down Code (77 Illinois Administrative Code 870).
- (f) Anchors. Anchors capable of withstanding a vertical tension force of four thousand eight hundred (4,800) pounds shall be installed at the corners of every mobile home stand or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors.

(B) **LOT AND BUILDING REQUIREMENTS.** Every principal building erected in the "R-2" District shall conform to the following requirements or covenants of the subdivision it is located within if applicable, or which is stricter:

Minimum Lot Area:	Ten thousand (10,000) sq. ft.
Minimum Lot Width at the established building site:	Eighty (80) feet
Minimum Lot Depth:	One-hundred (100) feet
Minimum Setbacks:	
From front lot line:	Twenty-five (25) feet
From either side lot line:	Ten (10) feet
From rear lot line:	Fifteen (15) feet

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From side yard abutting street:	Twenty-five (25) feet
Maximum Building Height:	Thirty-five (35) feet
Minimum Off-Street Parking	
Per Dwelling:	Two (2) Spaces

(C) **PERMITTED USES:**

Agriculture, including all agricultural uses defined in Section 40-2-2, provided the requirements of Section 40-5-2 are met.

Churches and related religious facilities.

Government uses of the Village of Germantown.

Parks, playgrounds.

Single-family dwellings, but not mobile homes.

Accessory uses in accordance with Section 40-3-12.

(D) **SPECIAL USES:**

Cemeteries.

Educational facilities.

Government uses other than those of the Village of Germantown.

Multi-family dwellings.

Home Occupations, but only in conformity with the requirements of Section 40-5-4.

Recreational facilities.

Utility substations.

Temporary non-farm dwellings, excluding mobile homes, on the same lot as another principal use.

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Educational facilities.

Recreational facilities.

Government uses other than those of the Village of Germantown.

Commercial laundry facilities.

(D) **MOBILE HOME REQUIREMENTS:**

(1) **One Per Lot.** Not more than one (1) mobile home shall be placed on any individual lot, nor shall any mobile home be placed on any individual lot whereon another principal building exists.

(2) **Stand.** Every mobile home shall be placed on a stand to provide adequate support therefore. The stand shall extend the length of the supports of the mobile home, and shall consist of either six (6) inch thick reinforced concrete runners or a four (4) inch thick reinforced concrete slab.

(3) **Anchors.** Anchors capable of withstanding a vertical tension force of four thousand eight hundred (4,800) pounds shall be installed at the corners of every mobile home stand or as otherwise necessary for protection against high winds. Every mobile home shall be securely tied down to such anchors.

(4) **Skirting.** Every mobile home shall be skirted with fire-resistant material. The skirting shall be equipped with an inspection door at least twenty-four (24) inches wide to allow access to the underside of the home.

40-4-5 **"C" COMMERCIAL DISTRICT.** The "C" Commercial District encompasses both the long-established and newer commercial areas where a wide range of goods and services are offered to the general public at retail or wholesale.

(A) **LOT AND BUILDING REQUIREMENTS:**

Minimum Lot Area: None

Minimum Lot Width: Thirty (30) feet

(At established building line)

Minimum Lot Depth: None

Minimum Setbacks: Generally not required except as necessary to comply with applicable off-street parking requirements. **However**, any lot that abuts any residential district shall meet the front setback and side setback (on the side abutting the residential use) requirements of such residential district.

Maximum Building Height: None

(B) **PERMITTED USES:**

Auto service stations.

Churches.

Clubs and lodges.

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Commercial establishments, wholesale and retail.
 Governmental uses of the Village of Germantown.
 Medical/dental clinics.
 Offices.
 Service establishments.
 Accessory uses in accordance with Section 40-3-12.

(C) SPECIAL USES:

Utility substations.
 Mini/self storage warehouses.
 Single-family dwellings, in accordance with Section 40-4-2(B).
 Government uses other than those of the Village of Germantown.

40-4-6 **"I" INDUSTRIAL DISTRICT.** The "I" Industrial District is intended to provide for areas where light industry, warehouses, and wholesale businesses may locate without detriment to the remainder of the community.

(A) USE RESTRICTIONS.

(1) **No Nuisances.** No production, processing, cleaning, servicing, testing, repair, sale, or storage of goods, materials, or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, and emission of toxic gases, excessive glare, and noxious odors.

(2) **Activities Enclosed.** All production, processing, cleaning, servicing, testing, or repair activities shall be conducted within completely enclosed buildings. Storage areas may be open to the sky, but shall be enclosed by walls or fences (whether solid or chain-link), including gates, at least eight (8) feet high.

(B) LOT AND STRUCTURE REQUIREMENTS.

Minimum Lot Area: Eighteen thousand seven hundred fifty (18,750) square feet

Minimum Lot Width: One hundred twenty-five (125) feet (at established building line)

Minimum Lot Depth: One hundred fifty (150) feet

Minimum Setbacks:

From front lot line: Twenty-five (25) feet

From any side lot line: Twenty-five (25) feet

From rear lot line: Twenty-five (25) feet

Maximum Structure Height: None

(C) PERMITTED USES. Provided all the use restrictions of this district (see Subsection 40-4-6(A) are observed, the following uses are permitted:

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Assembly, manufacturing, or processing of any commodity from semi-finished materials provided explosives, flammable gases, or liquids, or live animals are not involved.

Freight and bus terminals, and related transportation facilities.

Government uses of the Village of Germantown.

Research and development facilities not involving explosives or flammable or poisonous gases or liquids.

Service stations.

Warehousing or wholesaling of goods except explosives, flammable or poisonous gases, or liquids, or live animals.

Accessory uses in accordance with Section 40-3-12.

(D) SPECIAL USES. Provided all the use restrictions of this district (see Subsection 40-4-6(A) are observed, the following uses are permitted:

Assembly, manufacturing, or processing of any commodity from semi-finished materials provided explosives, flammable gases, or liquids, or live animals are not involved.

Junk/salvage yards, but only in accordance with Section 40-5-5.

Government uses other than those of the Village of Germantown.

Research and development facilities not involving explosives or flammable or poisonous gases or liquids.

ARTICLE V – SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES

40-5-1 APPLICABILITY OF ARTICLE. This article establishes lot and structure requirements, design standards, and use limitations for specific, potentially troublesome, structures and uses. These regulations apply in every zoning district where the specific structure or uses are permitted or allowed by special use permit; but if more stringent regulations are applicable in any particular district, such regulations shall prevail.

40-5-2 AGRICULTURAL ACTIVITIES. The requirements of Section 40-5-2 pertain to agricultural activities within the Agricultural District of the Village of Germantown.

(A) Farm Animals. No barn, stable, shed, or other structure intended to shelter farm animals (including, but not limited to, horses, cattle, hogs, goats, and sheep) shall be erected closer than **five hundred (500) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line of residential property, whichever distance is greater. Similarly, fences shall be erected or other means shall be taken to prevent farm animals from approaching closer than **five hundred (500) feet** to any existing dwelling or closer than **two hundred (200) feet** to any lot line or residential property, whichever distance is greater. (Exception: Such footage requirements shall not apply to seasonal fencing used to contain livestock pastured for the purpose of salvaging crops, provided that such temporary fencing remains no longer than a period of **three (3) months**.)

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(B) Farm Equipment/Commodities. No agricultural equipment or commodities (including, but not limited to, baled crops, fertilizer, pesticides/herbicides) shall be stored outdoors closer than three hundred (300) feet to any existing dwelling located on an adjacent lot or closer than two hundred (200) feet to any lot line of another person's residential property, whichever distance is greater. If said equipment/ commodities are stored within a completely enclosed structure, said structure shall be located at least one hundred (100) feet from any lot line of another person's residential property.

40-5-3 FENCES, WALLS.

(A) Barbed Wire, Electrical Fences. No barbed wire and electrically charged fences are allowed in the Village, except underground electronic dog fences.

(B) No fence, wall or other obstruction shall be erected within any public right-of-way, except by written permission of the Administrator.

(C) No fence, wall or other obstruction in any yard shall exceed **ten (10) feet** in height in any district except the Industrial District and Commercial District, and no fence, wall or other obstruction in a back or side yard shall exceed **eight (8) feet** in height in any "R-1 Single Family District," and "R-2 Two Family Residence District"; in addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls, or other obstructions. No fence, wall or other obstruction in the front yard shall exceed **four (4) feet** in height in the "R-1 Single Family District" and the "R-2 Two Family Residence District" and shall permit direct vision through at least fifty percent (50%) of any one (1) square foot segment of vertical service area in said districts. In addition, in areas near street intersections, special height restrictions shall be applicable to fences, walls and other obstructions. [See 40-3-10(B)]

(D) Every fence, wall, or other obstruction shall conform to the special height restrictions applicable in areas near intersections. (See Sec. 40-3-10(B), Figure 1)

E. No tree in any district shall be planted within **five (5) feet** of any lot line. In addition, all trees shall conform to the special height restrictions applicable in areas near intersections. (See Sec. 40-3-10(B), Figure).

40-5-4 HOME OCCUPATIONS. A "home occupation" means any business, profession, or occupation conducted for gain or support entirely within any dwelling or on any residential premises. Within this municipality, every home occupation shall be considered a special use. No home occupation shall be established or conducted except in conformity with the following regulations:

(A) Unrelated Employees: A home occupation shall employ no more than one individual who is unrelated to the family residing on the premises.

(B) Floor Space: The total area used of a home occupation conducted in a dwelling shall not exceed twenty-five (25%) of the gross floor area of said dwelling or three hundred (300) square feet, whichever is less.

(C) Dwelling Alterations: In any residential district, a dwelling shall not be altered to accommodate a home occupation in such a way as to materially change the

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residential character of the building.

(D) Outdoor Storage: Outdoor (unenclosed) storage on the premises of equipment or materials used in connection with a home occupation are prohibited.

(E) Nuisances: A home occupation shall not generate any offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical interference noticeable at or beyond the lot lines.

(F) Parking: See Article VI.

(G) Signs: A home occupation shall display only one identification/advertising sign. The area of said sign shall not exceed six (6) square feet. A home occupation sign may be lighted, by steady (not flashing) illumination.

40-5-5 JUNKYARDS.

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(A) No part of any junkyard—which includes any lot on which two (2) or more inoperable vehicles are stored—shall be located closer than five hundred (500) feet to the boundary of any residential district.

(B) All vehicles, parts and equipment and other scrap materials shall be stored within a completely enclosed structure or within an area screened by a wall, solid fence, or closely planted shrubbery at least eight (8) feet high and of sufficient density to block the view from adjacent properties.

(C) All existing junkyards located in any Residential or Commercial District shall meet the requirements of Section 40-5-5(B) within ninety (90) days following adoption of this Zoning Code, weather permitting.

40-5-6 KENNELS.

(A) The lot on which any kennel is situated shall have a minimum area of three (3) acres.

(B) Every kennel shall be located at least two hundred (200) feet from the nearest dwelling, and at least one hundred (100) feet from any lot line.

40-5-7 ADULT ENTERTAINMENT BUSINESSES.

(A) PURPOSE AND FINDINGS.

(1) It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Village. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Zoning Code to condone or legitimize the distribution of obscene material.

(2) Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Village Board of Trustees, and on findings related in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 427 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), City of Erie v. Pap-92s A.M., TDA-93 Kandyland-94, 529 U.S. 277 (2000), City of Los Angeles v. Alameda Books, Inc., 121 S. Ct. 1223 (2001), Northend Cinema, Inc. v. City of Seattle, 90 Wash.2d 709 (1978), and studies in

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"Report to the American Center for Law and Justice on the Secondary Impact of Sex Oriented Business," Environmental Research Group, March 31, 1996, "Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Business," Hubert H. Humphrey, III, Attorney General for the State of Minnesota, June 6, 1989, and "Appendix D. Summaries of Secondary Effects Reports," Preface to the Second Edition, Community Defense Counsel, the Village Board of Trustees finds:

- (a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
- (b) Certain employees of sexually oriented businesses defined in this Zoning Code as adult theatres and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
- (c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.
- (d) Offering and providing such space encourages such activities, which creates unhealthy conditions.
- (e) Persons frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- (f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV- AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (g) Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test.
- (h) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug

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abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

- (i) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (j) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (k) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
- (l) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (m) Reasonable zoning and licensing procedures are appropriate mechanisms to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such procedures will place an incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Village. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (n) The general welfare, health, and safety of the citizens of the Village will be promoted by the enactment of this section.
- (o) The findings noted in paragraphs (a) through (n) raise substantial governmental concerns.
- (p) The findings and opinions of the cases and studies as related in the opening of Paragraph (A)(2) of this section are the findings of the Village Board of Trustees as if set forth verbatim herein.

(B) **APPLICABILITY.** Notwithstanding any other provision in the Village's Municipal Code, adult entertainment businesses shall only be allowed only pursuant to a Special Use Permit and only in Industrial zoned districts in the Village.

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(C) **DEFINITIONS.** Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this section.

(1) **Adult Arcade** - Any room or area to which the public may gain admittance that also contains individual areas or stations or booths, where, for money or any other form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image-producing machines, video cassettes, slides, or other photographic reproduction of sexual activities or sexual areas as defined herein may be viewed.

(2) **Adult Bookstore, Adult Novelty Store, or Adult Video Store** - Any commercial establishment that does not otherwise qualify as an adult theater or nonprofit free lending library, and

- (a) Has five percent (5%) or more of its stock on the premises, or has five percent (5%) or more of its stock on display, in stores, periodicals, photographs, drawings, sculpture, motion pictures, films, video cassettes, video reproductions, DVDs, slides or other visual representations which depict nudity, sexual activities, sexual areas or sadomasochistic abuse, sexual excitement;
- (b) Has on the premises one or more mechanical devices intended for viewing such materials as described in the definition of Adult Arcade; or
- (c) Has for sale, rental, or display any instruments, devices or paraphernalia which are designed for use in connection with sexual activities.

(3) **Adult Entertainment Business** - Any enterprise which features, for money or any other form of consideration one or more of the following:

- (a) Adult live entertainment;
- (b) An adult motion picture theater;
- (c) An adult arcade;
- (d) An adult bookstore, adult novelty store, or adult video store;
- (e) A cabaret; or
- (f) An adult motel.

(4) **Adult Live Entertainment** - A person appearing nude in or during a live entertainment performance.

(5) **Adult Live Entertainment Performance Area** - An area where adult live entertainment shall occur.

(6) **Adult Motel** - A motel, or similar commercial establishment

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which:

- (a) Offers accommodations to the public for any form of consideration that provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of nudity of sexual activities or sexual areas and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 - (b) Offers rooms for rent for an hourly, or less than hourly, rate of time period.
- (7) Adult Motion Picture Theater - A building or structure used for presenting visual media or material distinguished or characterized by an emphasis on matter depicting or describing nudity, sexual activities or sexual areas for observation by patrons therein, and which has been given an X rating by the Motion Picture Association of America.
- (8) Applicant - Any person who applies for an adult entertainment business Special Use Permit.
- (9) Cabaret - An establishment that provides entertainment by live entertainers that are nude or in a state of nudity.
- (10) Entertainer - Any person who provides adult live entertainment in an adult entertainment business, whether or not a fee is charged or accepted for such entertainment.
- (11) Manager - Any person who manages, directs, supervises, administers, or is in charge of the affairs and/or the conduct of an adult entertainment business.
- (12) Municipal Code - The Village of Germantown Revised Code of Ordinances.
- (13) Nude, Nudity, or State of Nudity - The appearance or less than complete or opaque covering of the anus, genitals, pubic region, buttocks, or areola of the female breast, or any artificial depiction of the same.
- (14) Obscene - An activity or material that, taken as a whole, lacks serious literary, artistic, political, or scientific value, and
- (a) Taken as a whole by an average person applying contemporary community standards, appeals to a prurient interest in sex; and
 - (b) Taken as a whole by an average person applying contemporary community standards, depicts patently offensive representations of:
 - (i) Ultimate sexual acts, normal or perverted, actual

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- or simulated; or
- (ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or
- (iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape, or torture.

(15) Owner - The sole proprietor, significant stockholder, general partner, or significant limited partner of any adult entertainment business.

(16) Person - Any natural person; firm; joint venture, including all participants; partnership, including all partners; association, social club, or fraternal organization, including all officers and directors; corporation, including all officers, directors and significant stockholders; estate; trust; business trust; receiver; or any other group or combination acting as a unit.

(17) Sexual Activity - Any one or more of the following:

- (a) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, female breasts, or artificial depiction of the same;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy;
- (c) Masturbation, actual or simulated;
- (d) Excretory functions as part of or in connection with any of the activities set forth in subsections (a) through (c) of this definition.

(18) Sexual Area - The genitalia, pubic area, buttocks, or anus of any person and the breasts of any female person.

(19) Significant Limited Partner - Any person who owns twenty percent (20%) or greater interest in an adult entertainment business.

(20) Significant Stockholder - Any person who owns twenty percent (20%) or greater stock interest in an adult entertainment business.

(21) Village - The Village of Germantown, Illinois.

(D) **CONDITIONS OF USE.**

(1) Before issuance of any Special Use Permit for any adult entertainment business, the Board of Appeals shall be given sixty (60) days in which to make a report and recommendation as to whether such permit shall issue after the consideration of the criteria set forth in Sections 40-5-7(D) and (E). The Board of Appeals sixty (60) day time period to make a report and recommendation shall commence upon the delivery of the completed application. The completed application will be deemed "delivered" when the Zoning Administrator advised the

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applicant, in writing, that said application is complete. No action shall be taken upon any application for Special Use Permit until and unless the report of the Board of Appeals has been filed, provided that if no report is received from the Board of Appeals within sixty (60) days and unless an extension of time has been granted by the Village Board of Trustees, it shall be assumed that approval of the application has been given by the Board of Appeals.

(2) In the case of any adult entertainment business, the following special conditions shall apply:

- (a) No adult entertainment business shall be permitted within 1000 feet of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, or place of religious worship. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment establishment to the closest point on any property line of the religious institution, school, or public park, or the property zoned for residential use.
- (b) No adult entertainment business shall be allowed to locate or expand within 250 feet of any other adult entertainment business. The distance between any two (2) adult entertainment businesses shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.
 - (i) Measurement of Distances – For the purposes of this section, measurements shall be made in a straight line, without regard to intervening the premises upon which the adult entertainment business is located to the nearest property line of the areas stated.
- (c) The property on which any adult entertainment business is located shall have a minimum of 100 feet of frontage on a public right-of-way.
- (d) The facility on which the use is located and the parking for such facility shall have a front yard setback of fifty (50) feet, a side yard setback of twenty-five (25) feet and a rear yard setback of twenty-five (25) feet.
- (e) Off-street parking shall be provided pursuant to Article VI.
- (f) All fencing and wall requirements otherwise required

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- by Section 40-5-3 shall be observed.
- (g) The facility in which the use is located shall be designed in such a fashion that all openings, entries and windows prevent view into such facilities from any pedestrian, sidewalk, walkway, street or other public area. No adult entertainment activity whatsoever shall take place outside the adult entertainment facility.
 - (h) The facility in which such a use is located shall be limited to one (1) wall-mounted sign no greater than one (1) square foot of sign per 1 foot of wall length, not to exceed a total of twenty-five (25) square feet; said sign shall not flash, blink or move by mechanical means and shall not extend above the roof line of the building. Said sign shall not exceed eight feet in height from ground level. Further, no merchandise, symbol, or pictures of products or entertainment on the premises shall be displayed in window areas or on any sign or any area where such merchandise or pictures can be viewed from the exterior of the building. No flashing lights and/or lighting which leave the impression of motion or movement shall be permitted. No temporary signs shall be allowed.
 - (i) Alcoholic Beverages Prohibited – No persons, including patrons, shall sell, or offer for sale, possess or display for sale, or permit the consumption of, within the corporate limits of the Village, any alcoholic liquor upon the premises, including the parking lot area.
 - (j) Hours of Operation –
 - (i) Open for Business: An adult entertainment business shall be permitted to remain open for business or allow or permit patrons or members to remain upon the premises between the hours of ten o'clock (10:00) A.M. to eleven thirty o'clock (11:30) P.M. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, and Sunday from one o'clock (1:00) P.M. until eleven thirty o'clock (11:30) P.M.
 - (ii) Restrictions: It shall be unlawful to keep open for business, to admit the public or permit patrons to remain within or upon the premises of an adult entertainment business other than the hours as set out in subsection (i) of this section. If any person, other than the persons excepted

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under subsection (iii) of this section, is found to be within or upon the adult entertainment business more than fifteen (15) minutes after the required closing time, the person, along with the owner, manager or person in control of the adult entertainment business, will be subject to a violation of this section.

- (iii) Exception: This subsection does not apply to the owner, manager, or person in control of the adult entertainment business, or an employee who is performing cleaning or maintenance activities necessary for the operation of the establishment.

(k) Age Restriction –

- (i) Under Twenty-One: It shall be unlawful for any person under the age of twenty-one (21) years of age to be permitted or allowed to enter, remain within or upon the premises in which an adult use is located.

- (ii) Employees: It shall be unlawful for the owner, associate, member, representative, agent or employee of any adult entertainment business to employ in any capacity within the adult entertainment business any person who is under the age of twenty-one (21).

- (iii) Acceptable Identification: Only the following types of identification shall be accepted for the purposes of determining whether a person is old enough to enter an adult use establishment; vehicle operator's license, state photo identification card for non-drivers, visa or passport, and/or military identification card.

- (l) Lighting of the parking area shall conform to the requirements of the Municipal Code.

(m) Inspection –

- (i) Right of Entry: The Village Staff, Police Department and Fire Department shall have the authority enter upon any premises upon which an adult entertainment business is located in order to enforce the Zoning Code of the Village, laws of the State and any State or Federal laws pertaining to the health, safety or welfare of the

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public to determine whether any such laws are being violated, and to examine the operations and facilities used upon the premises.

- ii) In addition to the provisions of Subsection (i) and and (ii), no Special Use Permit may be granted by the Plan Commission and the Village Board of Trustees unless it finds that the Special Use:

- 1) Is necessary for the public convenience atthat location or in case of existing nonconforming uses, that a Special Use Permit will not make the use less compatible with its surroundings;
- 2) Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- 3) Will not cause substantial injury to the value of other property in the neighborhood in which it is located;
- 4) Will not be detrimental to the essential character of the district in which it is located.

- (iii) Every Special Use Permit granted shall be accompanied by a finding of fact specifying the reason for granting such Special Use Permit.

- (iv) The Village may revoke a Special Use Permitunder this section if the proposal for which a permit has been issued is not carried out pursuant to the approved site plan.

- (v) The approval or disapproval of any application by the Planning and Zoning Commission and the Village Board of Trustees may be appealed to the Village Zoning Board of Appeals. Such appeal shall be made within ten days following approval or disapproval of the application and filed with the Village Clerk. The Zoning Board of Appeals shall act on all such appeals within 30 days of receipt of the appeal.

(E) SITE PLAN.

- (1) Each application for a Special Land Use Permit shall require the submission of an accompanying site plan.

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(2) Site plans submitted to the Village for subsequent review by the Village staff, Planning and Zoning Commission and the Village Board of Trustees shall:

- (a) Be prepared by registered design professionals licensed in the State of Illinois, such as architects, landscape architects, or engineers, with the appropriate seal affixed.
- (b) Be drawn to a scale of not more than one (1) inch equals fifty (50) feet, and be accurate and readable so that the plan can be readily interpreted.
- (c) Include location map, north arrow, and plan scale.
- (d) State the subject site's Zoning District, subdivision name, lot number, Clinton County, Illinois permanent parcel index number (PPIN), dimensions and area, and zoning of adjacent parcels where different from site.
- (e) State the name, address and telephone/fax number of the person or firm submitting the site plan and the person or firm who desires the review comments forwarded to them.
- (f) Identify abutting property owners, names, addresses, zip codes, and PPINs on site plan.
- (g) Include existing and proposed contour lines or elevations based on mean sea level datum at not more than five (5) foot intervals, unless otherwise waived by the Village.
- (h) Include previous or concurrent Village approvals for variances, rezonings, Special Land Use Permits, etc. with date and conditions, if applicable.
- (i) State the proposed use of the building and its construction type and setback distance (front, side and rear yards) from adjacent property lines.
- (j) Provide overall dimensions of all buildings and gross floor area of each building.
- (k) Provide architectural renderings of all sides of all buildings and structures.
- (l) State off-street parking and loading spaces, required and proposed, including the number, size and location of those designated for the handicapped.
- (m) Delineate and dimension all areas utilized for driveways, storage and/or parking equipment, materials, and vehicles.

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- (n) Include the type, location, height and illumination levels of parking area lighting standards in accordance with Village's requirements.
- (o) Delineate any proposed pavement markings, directional signage, or traffic control measures.
- (p) Provide dimensions of existing and proposed roadway pavement and right-of-way width for streets abutting the site.
- (q) Delineate and dimension all existing and proposed curb cuts and driveway openings.
- (r) Delineate all existing and proposed sidewalks and any other elements of a pedestrian circulation system.
- (s) Provide for the direction of drainage flow and location of catch basins for parking areas (if required).
- (t) Include a traffic study prepared by a registered traffic engineer.
- (u) Include a landscape plan, which may be drawn on a site plan or a separate sheet. The landscape plan shall be drawn to scale of not more than one (1) inch equals fifty (50) feet. The plan shall, at a minimum, show the following information:
 - (i) the location, approximate size, and common botanical name of existing and proposed trees and shrubs;
 - (ii) the locations and details of other landscape features, including earthen berms, fences, or walls;
- (v) Include the location of all existing and proposed water mains, gas mains, or other public utilities within or adjacent to the development, including delineation of easements or rights-of-way associated with same.
- (w) Delineate location of an existing or proposed storm water detention facility sink holes and springs, ponds, creeks, or other wetland areas.
- (x) Show proposed site drainage system designed in accordance with the requirements of Madison County Soil & Water Conservation District and showing any proposed drainage swales, detention or retention areas, storm sewer systems, culverts and any other storm drainage improvements, including any off-site improvements.

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- (y) Include the delineation of FEMA designated floodplain and floodway boundaries, if any.
- (z) Include any proposed alteration, adjustment, or change in elevation of any floodplain or floodway as designated on the FEMA floodplain and floodway maps.
- (aa) State the location, dimensions and identification of existing and proposed freestanding signs.
- (bb) State the location, type and screening of refuse collection.
- (cc) State the measurements from the building or property line, to any other structures or property lines, establishing compliance or non-compliance with this

Zoning Code.

(F) **SEVERABILITY.** If any part of this section is found to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not effect the validity or effectiveness of the remaining provisions of this section or any part thereof and said section shall be read as if said invalid provision was struck there from and the context thereof changed accordingly with the remainder of the section to be and remain in full force and effect.

40-5-8 MOBILE HOMES PROHIBITED IN AGRICULTURE, COMMERCIAL, AND INDUSTRIAL DISTRICTS. No person shall place any mobile home in the "A" Agriculture District, "C" Commercial District, and/or "I" Industrial District.

40-5-9 SWIMMING POOLS.

(A) No private swimming pool shall be located in any front yard or closer than fifteen (15) feet to any side or rear lot line.

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40-6-5 **NUMBER OF PARKING SPACES REQUIRED.** Off-street parking spaces shall be provided as indicated in the table below. For any use that is not listed in the table, the same number of parking spaces shall be provided as is required for the most similar listed use. The Administrator shall make the determination of similarity.

<u>Use</u>	<u>Parking Spaces Required</u>
<u>Dwellings:</u>	
Mobile Homes	2 spaces per mobile home
Multiple-Family Dwellings	
1 bedroom or less	2 spaces per dwelling unit
2 or more bedrooms	3 spaces per dwelling unit
Single-Family and	2 spaces per dwelling unit
Two-Family Dwellings	
<u>Semi-Public, Institutional:</u>	
Churches	1 space per 4 seats in the largest seating area
Nursing Homes	1 space per 5 beds
<u>Commercial, Office, Service:</u>	
Note: All industrial, commercial, service or office uses, unless specifically indicated otherwise below:	1 space per 300 sq. ft. of gross floor space
Beauty and Barber Shops	2 spaces per chair, plus employee parking
Furniture and Appliance Stores	1 space per 600 sq. ft. of floor area
Home Occupations	1 space per 150 sq. ft. of floor area devoted to the home occupation in addition to the parking requirements for the dwelling
Restaurants, Refreshments Stands:	
Sit-down	1 space per 4 seats or 1 space per 50 sq. ft. of floor area, whichever is greater
Drive-In	1 space per 50 sq. ft. of building floor area
Funeral Parlor or Undertaking Establishment	10 spaces for each chapel or parlor and 1 space for each funeral vehicle kept on the premises
Service Stations	2 spaces per service stall, plus employee parking
Taverns	1 space per 4 seats or 1 space per 100 sq. ft. of floor area, whichever is greater

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40-6-6 PARKING OF SEMI TRAILERS.

(A) **Definition – Semitrailer** – any trailer that requires a commercial sized truck single or dual axle for transport. Those trailers have wheels, axles, tongues and are licensed for transport of merchandise, commodities, or other materials on state roadways.

(B) **Definition – Semi-truck** – any tractor or semi used primarily for pulling a semitrailer for transport of merchandise, commodities, or other materials on state roadways.

(C) It shall be unlawful to let stand or park, any semitrailer or semi-truck on any Residential property and/or property in an Residential (R-1) District except temporarily for the purpose of and while actually engaged in loading and unloading property or passengers on residential property.

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(B) Every swimming pool that is more than two (2) feet deep shall be enclosed by a wall of fence at least four (4) feet in height. The passage through such wall or fence shall be equipped with a locking gate.

(C) All lights used to illuminate any swimming pool shall be arranged or shielded so as to confine direct light rays within the lot lines to the greatest extent possible.

(D) All gates shall be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.

40-5-10 SIGNS PERMITTED IN ANY DISTRICT. Any sign or other street graphic enumerated below that complies with the indicated requirements is permitted in any district of the Village. Such signs or street graphics shall not be debited against the displaying establishment's sign area allowance.

(A) Construction Signs. Identifying the architects, engineers, contractors, and other individuals or firms involved with the construction, and/or announcing the character or purpose of the building. Such signs shall not exceed **sixteen (16) square feet** in area, shall be confined to the site of construction, and shall be removed **fourteen (14) days** after the intended use of the project has begun.

(B) Real Estate Signs. Indicating the sale, rental, or lease of the premises on which they are located: Such signs on residential property shall not exceed **four (4) square feet**; on the other property, such signs shall not exceed **sixteen (16) square feet**. Not more than **one (1)** real estate sign per street front shall be erected on any lot. Such signs shall be removed within **seven (7) days** of the sale, rental, or lease.

(C) Political Signs. Announcing candidates seeking public/political office and/or political issues and other pertinent information; In any district, political signs shall not exceed **sixteen (16) square feet**. Such signs shall be erected more than **ninety (90) days** prior to election and shall be removed within **fourteen (14) days** of the election.

(D) Public Interests Signs and Banners. Publicizing a charitable or non-profit event of general public interest: In any district public interest signs shall not exceed thirty-two (32) square feet. Public interest signs and street banners shall be permitted only for **twenty-eight (28) days** before and **seven (7) days** after the event.

(E) Governmental, Public, and Directional Signs. Such as traffic control signs; railroad crossing signs; legal notices, signs indicating the location of underground cables; no trespassing signs; no parking signs; signs indicating the entrances and exits of parking lots; signs indicating the location of public telephones, restrooms, etc.; and so forth.

(F) Institutional Signs. Identifying a public, charitable, or religious institution: such signs shall be located on the premises of such institution, shall not obstruct the vision of motorist.

(G) Integral Signs. Carved in stone or inlaid so as to become part of the building, and containing such information as date of erections, name of building, and memorial tributes.

(H) Home Occupation Signs. Identifying only the names and occupation of the residents: Home Occupation signs shall not be illuminated and shall not exceed **six (6)**

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square feet. Home Occupation signs must also comply with Section 40-5-4 of this Zoning Code.

(I) Subdivision Entrance Signs. Identifying a residential subdivision or apartment complex: Such signs shall be computed according to the following formula:

One (1) square foot of sign area per one (1) foot of street frontage; provided, however, that no establishment in any district shall display more than one hundred fifty (150) square feet of sign on any street front.

Special Situations.

1. If an establishment has frontage on two (2) or more streets, each side having such frontage shall be considered separately for purposes of determining compliance with the provisions of this article. However, the area allowance for signs shall not be aggregated so as to permit such establishment to display on any one frontage a greater area of signs than would be permitted by application of the formula set forth above.

2. The side of an establishment adjacent to an off-street parking area shall not be deemed frontage unless the establishment has no other frontage.

(J) House Numbers and/or Name of Occupant Signs. Located on the lot to which sign applies; such signs shall not exceed **two (2) square feet** for single-family dwellings, nor **six (6) square feet** for multiple-family dwellings.

40-5-11 PORTABLE STORAGE UNITS & DUMPSTERS

(A) **Portable Storage Units:** Portable storage units shall not be allowed on any R-1 zoned property unless a permit is obtained pursuant to the following conditions:

1. Permit. A permit shall be obtained from the Zoning Administrator prior to the placement, location, or parking of any portable *storage* unit on any private property zoned R-1.

2. Application. The application for a permit shall state the dates on which the portable storage unit will be located or placed on any private property zoned R-1, specifically including the first and last date not to exceed 30 days.

3. Submission Date. The application shall be submitted to the Zoning Administrator at least fourteen (14) days prior to the placement of any portable storage unit.

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4. Expiration Date. Any permit shall automatically expire on the date 30 days following the issuance thereof. Said permit shall be renewable for one additional 30 day term. Residences in R-1 permits will be limited at the discretion of the Zoning Administrator.

5. Maximum Number Permitted. Two (2) per zoning lot.

6. Maximum Size. No individual portable storage unit shall exceed one thousand two hundred eighty (1,280) cubic feet in size.

7. Location. Portable storage units shall have the following setbacks:

From front lot line:	Ten (10) Feet
From either side lot line:	Five (5) Feet
From rear lot line:	Five (5) Feet
From side yard abutting street:	Ten (10) Feet

8. Encroachment Prohibited. Portable storage units shall not encroach into any easement.

9. Stacking Prohibited: Portable storage units shall not be stacked on top of any other portable storage unit, container, or similar structure.

10. Dumpsters. Dumpsters, or other similar containers, shall not be considered portable storage units under this section.

11. Permit Fee. The property owner on whose property the portable storage unit is to be placed shall pay a permit fee per unit per instance as set forth in 40-8-9 of this code.

(B) Dumpsters: No person, firm, or corporation shall place any dumpster on any R-1 zoned property in excess of fourteen (14) days per twelve (12) month period (said time period may be extended by Zoning Administrator in case of new construction and emergencies). Said placement of a dumpster shall also be subject to the following:

1. Maximum Number Permitted. Two (2) per zoning lot.

2. Location. Dumpsters shall have the following setbacks:

From front lot line:	Ten (10) Feet
From either side lot line:	Five (5) Feet
From rear lot line:	Five (5) Feet
From side yard abutting street:	Ten (10) Feet

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3. Encroachment Prohibited. Dumpsters shall not encroach into any easement.
4. Waste Not To Overflow. Debris or any other waste or items placed in a dumpster shall not exceed the top or sides of any such dumpster.
5. Stacking Prohibited. Dumpsters shall not be stacked on top of any other dumpster, container, or structure.
6. Portable Storage Units. Portable storage units or other similar containers shall not be considered dumpsters under this section.
7. Waste Restriction. Any waste placed into a dumpster must come from the zoning lot on which the dumpster has been placed.

40-5-12 TEMPORARY CONSTRUCTION BUILDINGS.

(A) Definition - temporary construction building - a temporary construction building shall be defined for purposes of this Section as any building, structure, or trailer used for offices and/or storage of construction equipment or material while there is construction is being conducted on the same lot as the temporary construction building.

(B) Temporary Construction Buildings shall not be allowed on any R-1 zoned property unless a permit from the Zoning Administrator is obtained. The permit application shall include site plan of the construction and temporary construction building location and time period for beginning and ending construction. The permit shall be issued at the sole discretion of the zoning administrator and will be subject to the following regulations:

1. The temporary construction building must be removed immediately after the permit end date.
2. The temporary construction building must not be a public hazard, nuisance, or obstruct the public right of way.
3. The temporary construction building shall not be used as a dwelling.

40-5-13 WIND AND SOLAR ENERGY SYSTEMS.

(A) INTENT AND PURPOSE. Providing zoning regulations to guide the installation and operation of Wind and Solar Renewable Energy Systems to be used primarily on site and to accommodate sustainable energy production from renewable energy sources.

(B) DEFINITIONS.

(1) SOLAR ENERGY SYSTEM: A system that uses the power of the sun to capture, distribute, and/or store energy for on-site consumption of utility power.

(2) SOLAR ENERGY SYSTEM, BUILDING-INTERGRATED: A Solar Energy System that is an integral part of a principal or accessory building, rather than a

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separate mechanical device, replacing or substituting for an architectural or structural component of a building.

(3) SOLAR ENERGY SYSTEM, BUILDING-MOUNTED: A Solar Energy System affixed to either the principal or accessory structure.

(4) SOLAR ENERGY SYSTEM, GROUND-MOUNTED: A Solar Energy System that is not attached to another structure and is affixed to the ground, or this is attached to an antenna, light pole or other utility facility.

(5) SOLAR FARM ENERGY SYSTEM: A commercial Solar Energy System that is used to convert sunlight to electricity for on-site or off-site use with the primary purpose being to provide or sell wholesale or retail electricity.

(6) WIND ENERGY SYSTEM: A Wind Energy Conversion System consisting of a wind turbine, a tower or mounting, and associated control or conversion electronics, which is intended primarily to reduce on-site consumption of utility power.

(A) WIND AND SOLAR RENEWABLE ENERGY SYSTEMS. - The requirements set forth in this Section shall govern the construction and/or installation of all Renewable Energy Systems governed by this Chapter.

(1) Applicability: The provisions of this ordinance are intended to establish parameters by which Solar Energy Systems may be installed in the Village of Germantown. Solar Farm Energy Systems are **not** permitted. Wind energy systems are **not** permitted in a Residential (R-1) District. Additional renewable energy installations not addressed explicitly herein may be authorized, subject to compliance with the applicable building codes and standards of the Village of Germantown.

(2) Use: Except as authorized by the Board of Trustees for public utility purposes, a Renewable Energy System shall be accessory to the principal permitted use of a site.

(3) Approvals: Approval granted to an individual property owner for a Renewable Energy System under the provisions of this code shall not be construed to bar owners or tenants of any adjacent property from ordinary or permitted building, landscaping or other accessory improvements, even if such improvements may diminish the function of said Renewable Energy System.

(4) Permitting and Installation: A Village of Germantown building permit is required prior to the installation of any Renewable Energy System. Before a building permit is issued, the following shall be submitted to the Village of Germantown for review:

(a) A site plan showing:

- i) Name, address, and phone number of the property owner;
- ii) Property line ;
- iii) All structures;
- iv) Septic field;
- v) Setback lines;
- vi) Location of all solar panels and associated equipment;

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(b) The owner of a Renewable Energy System shall be underground or contained within a raceway that complements the building materials of the principal structure.

(c) Illumination of a Renewable Energy System shall be prohibited.

(d) No signage or attention-getting device is permitted on any Renewable Energy System.

(B) **SOLAR ENERGY SYSTEMS.**

(1) **Authorization of Use.**

(a) Building-Integrated and Building-Mounted Solar Energy Systems may be authorized administratively in all zoning districts in accordance with the requirements of this Chapter and subject to approval by the Village of Germantown or their designees. Ground Mounted Solar Energy Systems require a variance pursuant to the Village zoning code.

(2) **Height**

(a) Building-Mounted Solar Energy System: A Building-Mounted Solar Energy System may not extend above the peak roof height of the building to which the Solar Energy Systems is affixed.

(b) Ground-Mounted Solar Energy System: The maximum height of a Ground-Mounted Solar Energy System shall be six feet (6') as measured from the average grade at the base of the pole to the highest edge of the system.

(3) **Location**

(a) Ground-Mounted Solar Energy Systems shall not be located within the required front yard or corner side yard or in any utility, water, sewer, or other type of public easement.

(b) All parts of any Ground-Mounted Solar Energy System shall be set back at least ten feet (10') from the interior side and rear property lines.

(c) Ground-Mounted Solar Energy Systems shall not exceed twenty (20) percent of the required rear or backyard.

(C) **MAINTENANCE AND REMOVAL OF RENEWABLE ENERGY SYSTEMS.**

(1) Renewable Energy Systems must be maintained in good repair and operable condition at all times, including compliance with all standards in applicable building and technical codes to ensure structural and technical integrity of such facilities, except for maintenance and repair outages. If a system becomes inoperable or damaged, operations must cease and be promptly remedied.

(2) If the Village determines that a Renewable Energy System fails to comply with the applicable provisions of this Code, the Village shall provide written notification to the property owner. The property owner shall have a period of ninety (90) days from the date of notification to either restore the Renewable Energy System to operation or remove the system.

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(3) In the event such Renewable Energy System is not brought into compliance with this Code within the specified time period, the Village may remove or cause the removal of said facility at the property owner's expense.

(4) The Village may pursue any and all available legal remedies to ensure that a Renewable Energy System which fails to comply with this Code.

(5) Any delay by the Village in taking enforcement action against the owner of a Renewable Energy System and the owner of the property if such owner is different from the owner of such facility, shall not waive the Village's rights to take any action at a later time.

(6) The Village may seek to have the Renewable Energy System removed regardless of the owner's or operator's intent for said facility, and regardless of any permits that may have been issued or granted.

(7) After the Renewable Energy System is removed, the owner of the Subject Property shall promptly restore the Subject Property to a condition consistent with the property's condition prior to the installation of the system. Installation shall comply subject to current codes.

ARTICLE VI – OFF-STREET PARKING AND LOADING

40-6-1 APPLICABILITY OF ARTICLE. Off-street parking and loading shall be provided in accordance with this article for all structures and uses erected or established after the effective date of this Zoning Code.

(A) EXISTING PARKING/LOADING FACILITIES:

(1) Existing off-street parking or loading facilities located on the same lot as the use served shall not be reduced- or if already less than, shall not be further reduced- below the requirements and standards for similar new structures or uses.

(2) When an existing structure or use is damaged or destroyed and subsequently repaired or rebuilt, parking/loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored, but additional parking/loading facilities need not be provided.

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(3) Whenever the use of any structure or premises is intensified through addition of dwelling units, increased floor area, greater seating capacity, etc., additional parking and loading facilities commensurate with such increases in use-intensity shall be provided.

(4) Whenever the existing use of a structure is changed to a different use, parking or loading facilities shall be provided as required herein for such new use.

40-6-2 **PARKING LOT STANDARDS.** All off-street parking lots shall conform to the standards indicated in the subsections below:

(A) **SPACES:** Each required off-street parking space shall be at least nine (9) feet wide and eighteen (18) feet long, and shall have at least seven (7) feet of vertical clearance. Every space shall be situated so that no part of any parked vehicle overhangs the public right-of-way.

(B) **ACCESS WAYS:** No access way to any parking lot shall be located within thirty (30) feet of any corner formed by the intersection of the rights-of-way of two or more streets.

(C) **SURFACING:** Parking lots shall be graded and improved in accordance with the Village of Germantown Revised Code of Ordinances.

40-6-3 **LOCATION OF OFF-STREET PARKING.**

(A) **For Dwellings.** Parking spaces accessory to dwellings shall be located on the same lot as the dwelling. Such parking spaces shall not be located in any front yard except in the driveway, but may be located in the side or rear yards. Each parking space accessory to a multi-family dwelling shall be unobstructed so that no vehicle need be moved in order to allow another vehicle to enter/exit the parking area. No parking space, including concrete pads used for recreational purposes, shall be within two (2) feet of any side or rear lot line.

(B) **For Dwellings – Trailers & Recreational Vehicles.** All parking for trailers and recreational vehicles must be in accordance with the following setback rules:

From front lot line:	Ten (10) Feet
From either side lot line:	Two (2) Feet
From rear lot line:	Two (2) Feet
From side yard abutting street:	Ten (10) Feet

The parking of not more than 3 unoccupied trailers or recreational vehicles is permitted provided no living quarters or businesses are maintained in said trailer or recreational vehicle.

(C) **For Commercial/Industrial Uses.** In the Commercial or Industrial Districts, off-street parking facilities for different buildings or uses may be provided collectively; but only if the total number of spaces so located together is not less than the

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sum of the separate requirements for each use (see Section 40-6-5).

40-6-4 DESIGN AND LOCATION OF OFF-STREET LOADING FACILITIES. If provided, all off-street loading facilities shall conform to the minimum standards indicated below:

(A) Size of Space. Every off-street loading space shall be at least twelve (12) feet wide and sufficiently long to accommodate the type of vehicle expected to use the space. In no case shall a vehicle being loaded or unloaded overhang into the public right-of-way.

(B) Access Way. Every off-street loading space shall have a safe means of vehicular access to a street or alley. Such access way shall be at least twelve (12) feet wide.

(C) Surfacing. Every off-street loading area shall be improved with a compacted stone base at least seven (7) inches thick.

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ARTICLE VII – NONCONFORMITIES

40-7-1 **PURPOSE OF ARTICLE.** The requirements imposed by this Zoning Code are designed to guide the use of land by encouraging the development of structures and uses that are compatible with the predominant character of each of the various districts. Lots, structures, and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. For example, nonconformities are frequently responsible for heavy traffic on residential streets, the overtaxing of parking facilities, the creation of nuisances, and/or the lowering of property values. The regulations of this Article are intended to alleviate such existing/potential problems by encouraging the gradual elimination of nonconformities.

40-7-2 **NONCONFORMING LOTS.** Any vacant lot that does not conform to one or more of the lot size (area, dimensions) requirements of the district in which it is located may, nonetheless, be developed for any use permitted in that district if such vacant lot:

- (1) Was recorded in the Clinton County Recorder of Deeds Office prior to the enactment of this Zoning Code (or pertinent amendment thereto); and
- (2) Is at least thirty (30) feet wide.

(A) **TWO OR MORE LOTS IN COMMON OWNERSHIP:** If two or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership of the effective date of this Zoning Code, and if one or more of those lots does not meet the minimum lot width, depth, or area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this Zoning Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Zoning Code.

40-7-3 **NONCONFORMING STRUCTURES.** Any otherwise lawful structure which exists on the effective date of this Zoning Code but which could not be erected under the terms of this Zoning Code because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot may lawfully remain, subject to the following provisions:

(A) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.

(B) **Enlargement, Alterations.** A nonconforming structure may be enlarged and/or altered, provided that:

- (1) Such enlargement and/or alteration is confined within the lot lines of the property in question as such lot lines existed on the effective date of this Zoning Code; and

(2) Such requirements and alterations meet the applicable requirements, setbacks, etc., of this Zoning Code; and

(3) Such enlargement and/or alteration does not increase or worsen the nonconforming characteristics of the structure.

(C) Reconstruction. A nonconforming structure that is damaged or destroyed may be rebuilt, provided that:

(1) Reconstruction commences within one year from the date of damage/destruction and is diligently pursued to completion within two (2) years from the date of damage or destruction; and

(2) The structure, when reconstructed, will not be more nonconforming than it had been.

NOTE: If reconstruction does not commence within one year or is not diligently pursued to completion (as determined by the Administrator), the damaged structure shall be considered abandoned—in which case reconstruction shall be allowed only if the structure will be rebuilt in conformity with the provisions of this Zoning Code which are applicable to new structures in the zone district in which it is located.

(D) Relocation. A nonconforming structure shall not be moved to another lot unless, after relocation, it will conform to all the regulations of the district where it will be situated.

40-7-4 NONCONFORMING USES. Any otherwise lawful use existing on the effective date of this Zoning Code that would not be permitted under the terms of this Zoning Code may lawfully continue, subject to the following provisions:

(A) Expansion/Intensification. A nonconforming use which does not occupy a structure (such as a nursery) may be expanded/intensified, but only within the confines of the lot lines as such lines existed on the effective date on this Zoning Code. A nonconforming use which occupies a structure may be expanded or intensified, but only within that structure and/or within any conforming addition to said structure. (For rules concerning expansion of nonconforming structures, see Sec. 40-7-3(B) above.)

(B) Re-establishment. A nonconforming use which is destroyed or damaged may be reestablished. However, if the owner of said damaged/destroyed use proposes to expand, relocate, or change it, then the other pertinent paragraphs of this section shall prevail. Moreover, if no significant steps have been taken to re-establish the use within one year from the date of damage/destruction occurred, then the use shall be considered abandoned and subject to the provisions of Paragraph (E) of this section.

(C) Relocation. A nonconforming use shall not be moved, in whole or in part, unless, upon relocation, it will conform to all pertinent regulations of the district in which it will be located.

(D) Change of Use. A conforming use may continue, but shall not be changed except to a use that is permitted under the applicable district regulations.

(E) Discontinuance. When a nonconforming use is discontinued for a period of twelve (12) consecutive months, it shall not thereafter be resumed, and any

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subsequent use of the premise shall conform to the applicable district regulations. Any discontinuance caused by government action and without any contributing fault by the owner or operator shall not be counted in calculating the length of discontinuance.

40-7-5 NONCONFORMITIES UNDER PERMIT AUTHORITY. The regulations of this Article shall not affect the terms of any permit issued prior to the effective date of this Zoning Code or any pertinent amendment thereto provided that the work authorized by such permit is completed within the guidelines of the current issued permit.

ARTICLE VIII – ADMINISTRATION AND ENFORCEMENT

40-8-1 ZONING ADMINISTRATOR. The office of Zoning Administrator of the Village is hereby established. The Zoning Administrator shall be the executive head of this office. With the consent of the Village Board, the Administrator may appoint such other employees as he/she deems necessary to carry out the duties of his/her office.

(A) DUTIES. The Zoning Administrator is hereby authorized and directed to administer and enforce the provisions of the Zoning Code. This broad responsibility encompasses, but is not limited to, the following specific duties:

- (1) Review and pass upon applications for initial and final certificates of zoning compliance;
- (2) Inspect (as per Sections 40-8-2, 40-8-3, 40-8-4, 40-8-5, and 40-8-6) land, structures, and uses to determine compliance with this Zoning Code, and where there are violations, to initiate appropriate corrective action;
- (3) Review and forward to the Zoning Board of Appeals all applications for variances, appeals, special use permits, temporary use permits, and amendments;
- (4) Maintain up-to-date records of this Zoning Code including, but not limited to, district maps, certificates of zoning compliance, special use permits, temporary use permits, variances, interpretative decisions of the Board of Appeals, amendments, and all applications related to any of these matters;
- (5) Periodically review the provisions of this Zoning Code to determine whether revisions are needed, and to make recommendations on these matters to the Zoning Board of Appeals at least once each year;
- (6) Publish copies of this Zoning Code (including the district map) and any amendments thereto;
- (7) Provide information to the general public on matters related to this Zoning Code; and
- (8) Perform such other duties as the Village Board may from time to time prescribe.

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40-8-2 INITIAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Zoning Code, no land shall be developed, no use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated, or reconstructed until an initial certificate of zoning compliance has been issued. The Administrator shall not issue an initial certificate of zoning compliance unless, following consultation with technically qualified persons as necessary, he determines that the proposed work conforms to the applicable provisions of this Zoning Code.

(A) APPLICATION. Every applicant for an initial certificate of zoning compliance shall submit to the Administrator, in graphic and/or written form, all the items of information listed below that are applicable to the particular project. The Administrator shall decide which items are applicable. (See also Section 40-8-9 "Schedule of Fees".)

(1) Items of Information:

- (a) Name and address of the applicant;
- (b) Name and address of the owner or operator of the proposed structure or use, if different from (a);
- (c) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (d) Location of the proposed use or structure, and its relationship to existing adjacent uses or structures;
- (e) Area and dimensions of the site for the proposed structure or use;
- (f) Height and setbacks of the proposed structure;
- (g) Number and size of proposed dwelling units, if any;
- (h) Location and number of proposed parking/loading spaces and access ways;
- (i) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (j) Legal description
- (k) Any other pertinent information that the Administrator may require.

(B) DURATION OF CERTIFICATE. Initial certificates of zoning compliance shall be valid for one (1) year, or until revoked for failure to abide by a corrective action order. The Administrator may renew initial certificates of zoning compliance for successive one-year periods upon written request, provided the applicant is making a good faith effort to complete the authorized work.

40-8-3 FINAL CERTIFICATES OF ZONING COMPLIANCE. No lot or part thereof recorded or developed after the effective date of this Zoning Code, and no structure or use, or part thereof, that has been erected, enlarged, altered, relocated, or reconstructed after the effective date of this Zoning Code shall be used, occupied, or put into operation until a final certificate of zoning compliance has been issued. The Administrator shall not

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issue a final certificate of zoning compliance until he has determined, by inspection, that the work authorized by the initial certificate of zoning compliance has been completed in accordance with approved plans. Failure to obtain a final certificate of zoning compliance shall constitute separate violations of this Zoning Code.

40-8-4 CORRECTIVE ACTION ORDERS. Whenever the Administrator finds, by inspection or otherwise, that any lot, structure, or use, or work thereon, is in violation of this Zoning Code, he shall so notify the responsible party, and shall order appropriate corrective action.

(A) CONTENTS OF ORDER. The order to take corrective action shall be in writing and shall include:

- (1) A description of the premises sufficient for identification;
- (2) A statement indicating the nature of the violation;
- (3) A statement of remedial action necessary to effect compliance;
- (4) The date by which the violation must be corrected;
- (5) A statement that the alleged violator is entitled to a conference with the Administrator if he so desires;
- (6) The date by which an appeal of the corrective action order must be filed, and a statement of the procedure for so filing; and
- (7) A statement that failure to obey a correctable action order shall result in revocation of the certificate of zoning compliance and may result in the imposition of fines.

(B) SERVICE OF ORDER. A corrective action order shall be deemed properly served upon the owner, occupant, or operator of the offending lot, structure, or use if it is:

- (1) Served upon owner personally;
- (2) Sent by registered mail to owner's last known address; or
- (3) Posted in a conspicuous place on or about the affected premises.

(C) STOP WORK ORDERS. Whenever any work is being done in violation of an initial certificate of zoning compliance, the Administrator's corrective action order may state that the violation must cease immediately. (See Subsection 40-8-4(A)(4).) In such case, the corrective action order is equivalent to a stop order.

40-8-5 EMERGENCY MEASURES. Notwithstanding any other provision of this Zoning Code, whenever the Administrator determines that any violation of this Zoning Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-8-6 COMPLAINTS. Whenever any violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a written complaint on forms provided by

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the Administrator. The Administrator shall record such complaints, immediately investigate, and, if necessary, institute appropriate corrective action.

40-8-7 PENALTIES.

(A) Any person who is convicted of a violation of this Zoning Code shall be fined not less than Twenty Dollars (\$20.00) nor more than Five Hundred Dollars (\$500.00), plus costs. Each day that a violation continues shall be considered a separate offense.

(B) Nothing contained in this section shall prevent this Village from taking any other lawful action that may be necessary to secure compliance with this Zoning Code.

40-8-8 FILING FEES. By ordinance, the President and Board of Trustees of the Village shall establish (and may amend from time to time) a schedule of fees for various permits and procedures listed in this Zoning Code. Said fees are intended to defray the administrative costs connected with the processing of such permits and conducting of hearings or procedures; the fees do not constitute a tax or other revenue raising devise. All such fees shall be paid by the applicant to the Village Clerk.

40-8-9 SCHEDULE OF FEES. All fees indicated in tabular from below shall be paid to the Village Clerk. Said fees are intended to defray the administrative costs connected with the processing/conducting of the listed permits/procedures; they do not constitute a tax or other revenue-raising device.

<u>PERMIT/PROCEDURE</u>	<u>FEE</u>
Zoning Certificate of Compliance (Building Permit)	
Residential (living area excluding basement and garage)	\$0.05 per sq. ft; Min. fee \$50.00
Commercial and Industrial	\$0.06 per sq. ft; Min. fee \$50.00
Replacement of Mobile Home	\$50.00
Accessory Uses	\$50.00
Misc. Permit (Non-structure or Home Occupations)	\$20.00
ie: fence, parking lot, sidewalks, driveway, patio pool & deck, portagle shed	
Special Use Permit, plus costs of certified mail to adjoining property owners	\$175.00*
Temporary Use Permit, plus costs of certified mail to adjoining property owners	\$175.00*
Appeal, plus costs of certified mail to adjoining property owners	\$175.00*
Variance, plus costs of certified mail to adjoining property owners	\$175.00*
Late Filing (Failure to Obtain Permit {in addition to permit})	\$ 75.00*

*Fee will include actual costs for certified mail to adjacent landowners and publication costs.

ARTICLE IX – MATTERS ENTRUSTED TO THE BOARD OF APPEALS

40-9-1 **BOARD OF APPEALS ESTABLISHED.** The Zoning Board of Appeals of the Village is hereby established in accordance with Illinois law (65 ILCS 5/11-13-3).

(A) **MEMBERSHIP, APPOINTMENT, COMPENSATION.** The Board of Appeals shall consist of seven (7) members, all of whom must reside within the corporate limits of the Village of Germantown. Each Board member shall be appointed by the Village President with the advice and consent of the Village Board. One of the members so appointed shall be named by the Village President as chairman at the time of his appointment. Each Board member shall receive for his/her services such compensation, if any, as is determined from time to time by the Village Board.

(B) **TERMS OF OFFICE, VACANCIES.** Each Board member shall hold office for five (5) years from the date of his/her appointment, and until his/her successor has been selected and qualified; provided, however, that the initial appointees to the Board shall serve respectively for the following terms: one member for one (1) year, one member for two (2) years, one member for three (3) years, one member for four (4) years, one member for five (5) years, one member for six (6) years, and one member for seven (7) years. With the advice and consent of the Village Board, the Village President may remove any member of the Board of Appeals for cause, after a public hearing. Vacancies on the Board shall be filled for the unexpired term of the member whose place has become vacant in the same manner as provided for the appointment of new members.

(C) **MEETINGS, QUORUM.** All meetings of the Board of Appeals shall be held at the call of the chairman and at such times as the Board may determine. All Board meetings shall be open to the public. The Board may adopt their own rules of meeting procedures consistent with this Zoning Code and the applicable Illinois statutes. The Board may select such officers as they deem necessary. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. Four (4) members of the Board shall constitute a quorum, and the majority vote shall be necessary to authorize Board action.

(D) **RECORDS.** The Board shall keep minutes of its proceedings and examinations. These minutes shall indicate the absence of any member, the vote or abstention of each member on each question, and any official action taken. A copy of every rule, variance, order, or decision of the Board shall be filed with the Village Clerk and shall be a public record.

40-9-2 **APPEALS.** Any person aggrieved by any decision or order of the Zoning Administrator in any matter related to the interpretation or enforcement of any provision of this Zoning Code may appeal to the Zoning Board of Appeals. Every such

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appeal shall be made and treated in accordance with Illinois law (65 ILCS 5/11-13-12) and the provisions of this section.

(A) **FILING, RECORD TRANSMITTAL.** Every appeal shall be made within forty-five (45) days of the matter complained of by filing with the Administrator and the Board of Appeals a written notice specifying the grounds for appeal. (Every appeal shall also be filed with the Soil and Water Conservation District as per State law.) (70 ILCS 405/22.02a) Not more than five (5) working days after the notice of appeal has been filed, the Administrator shall transmit to the Board of Appeals all records pertinent to the case. (See also Section 40-8-9, "Schedule of Fees".)

(B) **STAY OF FURTHER PROCEEDINGS.** An appeal stays all further action on the matter being appealed unless the Administrator certifies to the Board, after the notice of appeal has been filed with him/her, that for reasons stated in the certificate, a stay would cause imminent peril to life for property. In such case, further action shall not be stayed unless the Board or the Circuit Court grants a restraining order for due cause, and so notifies the Administrator.

(C) **PUBLIC HEARING, NOTICE.** The Board of Appeals shall hold a public hearing on every appeal within forty-five (45) days after the filing of the appeal notice. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and briefly describing the issue to be decided shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:

- (1) By first class mail to all abutting property owners; and
- (2) By publication in a newspaper of general circulation within the Village.
- (3) The applicant shall bear the expense of mailing the indicated notice to all adjacent property owners by return receipt mail and submitting a proof of service back to the Administrator listing all parties whom the notice was sent and attaching the return receipt signed by someone at the addressee's address.

(D) **DECISION BY BOARD OF APPEALS.** The Board of appeals shall render a decision on the appeal within fifteen (15) days after the hearing. The Board may reverse or affirm, wholly or partly, or may modify or amend the decision or order appealed from to the extent and in the manner that they deem appropriate. In so doing, the Board of Appeals has all the powers of the Administrator.

40-9-3 **VARIANCES.** A variance is a relaxation of the requirements of this Zoning Code that are applicable to a particular lot, structure, or use. A so-called "use variance" (which would allow a use that is neither permitted nor special in the district in question) is not a variance; it is an amendment, and may be granted only as provided for in Section 40-10-3.

(A) **APPLICATION.** Every application for a variance shall be filed with the Administrator on a prescribed form. (Every variance application shall also be filed with the

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Soil and Water Conservation District as per State law.) (70 ILCS 405-22.02a). The Administrator shall promptly transmit said application, together with any advice he might wish to offer, to the Board of Appeals. The application shall contain sufficient information to allow the Board to make an informed decision, and shall include, at a minimum, the following: (See also Section 40-8-9, "Schedule of Fees".)

- (1) Name and address of the applicant;
- (2) Brief description and explanation of the requested variance;
- (3) Location of the structure/use for which the variance is sought;
- (4) Relationship of said structure/use to existing structure/uses on adjacent lots;
- (5) Specific section(s) of this Zoning Code containing the regulations which, if strictly applied, would cause a serious problem; and
- (6) Any other pertinent information that the Administrator may require.

(B) PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on each variance request within a reasonable time after the variance application is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing, and the nature of the proposed variance shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:

- (1) By first class mail to the applicant and to all parties whose property abuts the proposed variances; and
- (2) By publication in a newspaper of general circulation within this municipality.
- (3) The applicant shall bear the expense of mailing the indicated notice to all adjacent property owners by return receipt mail and submitting a proof of service back to the Administrator listing all parties whom the notice was sent and attaching the return receipt signed by someone at the addressee's address.

(C) STANDARDS FOR VARIANCES. The Board of Appeals shall not grant any variance unless, based upon the evidence presented to them, they determine that:

- (1) The proposed variance is consistent with the general purposes of this Zoning Code (See Section 40-1-1); and
- (2) Strict application of the district requirements would result in great practical difficulties or hardship to the applicant, and prevent a reasonable return on the property; and
- (3) The proposed variance is the minimum deviation from such requirements that will alleviate from difficulties/hardship, and allow a reasonable return of the property; and
- (4) The plight of the applicant is due to peculiar circumstances not of his own making; and

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(5) The peculiar circumstances engendering the variance request are not applicable to other property within the district, and therefore, that a variance would be a more appropriate remedy than an amendment (rezoning); and

(6) The variance, if granted, will not alter the essential character of the area where the premises in question are located.

(D) TERMS OF RELIEF, FINDINGS OF FACT. The Board of Appeals shall render a decision on every variance request within fifteen (15) days after the public hearing, and will submit their decision at the next regular meeting of the Village Board. In accordance with State law (65 ILCS 5/11-13-11), the Board of Appeals shall specify the terms of relief granted (if any) in one statement and their findings of fact in another statement. The findings of fact shall clearly indicate the Board's reasons for granting or denying any requested variance.

ARTICLE X – MATTERS ENTRUSTED TO THE BOARD OF APPEALS AND VILLAGE BOARD

40-10-1 SPECIAL USE PERMITS. This Zoning Code divides this Village into various districts, and permits each district as a matter of right, only those uses which are clearly compatible with one another. Certain other uses, because of their special operational or physical characteristics, may or may not have a detrimental impact on nearby permitted uses, depending upon their precise location, manner of operation, and other factors. Such “special uses” require careful case-by-case review, and may be allowed only by permission of the Village Board.

(A) APPLICATION. Every applicant for a special use permit shall submit to the Administrator, in written and/or graphic form, the items of information enumerated below. The Administrator shall prepare an advisory report on every request for a special use permit. He shall promptly transmit the completed application and his advisory report to the Board of Appeals. (See also Section 40-8-9, “Schedule of Fees”.)

(1) Items of Information

- (a) Name and address of the applicant;
- (b) Name and address of the owner or operator of the proposed structure or use, if different from (a);
- (c) Nature of the proposed use, including type of activity, manner of operation, number of occupants or employees, and similar matters;
- (d) Location of the proposed use or structure, and its relationship to existing adjacent uses or structures;
- (e) Area and dimensions of the site for the proposed structure or use;
- (f) Legal description;

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- (g) Existing and proposed screening, landscaping, and erosion control features on the site, including the parking area;
- (h) Height and setbacks of the proposed structure;
- (i) Number and size of proposed dwelling units, if any;
- (j) Location and number of proposed parking/loading spaces and access ways;
- (k) Identification and location of all existing or proposed utilities, whether public or private; and/or
- (l) Any other pertinent information that the Administrator may require.

(B) **PUBLIC HEARING NOTICE.** The Board of Appeals shall hold a public hearing on every special use permit application within forty-five (45) days after said application is submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed special use shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:

- (1) By first class mail to the applicant and to all parties whose property abuts the proposed variances; and
- (2) By publication in a newspaper of general circulation within this municipality.
- (3) The applicant shall bear the expense of mailing the indicated notice to all adjacent property owners by return receipt mail and submitting a proof of service back to the Administrator listing all parties whom the notice was sent and attaching the return receipt signed by someone at the addressee's address.

(C) **ADVISORY REPORT, FACTORS CONSIDERED.** The Board of Appeals shall submit their advisory report to the Village Board at the next regular meeting of the Village Board. In deciding what their advice should be, the Board of Appeals shall consider the following factors:

- (1) Whether the proposed design, location, and manner of operation of the proposed special use will adequately protect the public health, safety, and welfare, and the physical environment;
- (2) The effect the proposed special use would have on the value of neighboring property and on this Village's overall tax base;
- (3) The effect the proposed special use would have on public utilities and on traffic circulation on nearby streets; and
- (4) Whether there are any facilities near the proposed special use (such as schools or hospitals) that require special protection.

(D) **ACTION BY VILLAGE BOARD.** The Village Board shall act on every request for a special use permit at their next regularly scheduled meeting following submission of the Board of Appeals advisory report. Without further public hearing, the

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Village Board may grant a special use permit by an ordinance passed by simple majority vote of all members then holding office. In a separate statement accompanying any such ordinance, the Village Board shall state their findings of fact, and indicate their reasons for approving (with or without conditions) or denying the request for a special use permit.

40-10-2 AMENDMENTS. The Village Board may amend this Zoning Code in accordance with State law (65 ILCS 5/11-13-14) and the provisions of this section. Proposed alterations of district boundaries or proposed changes in the statutes of uses (permitted, special, and prohibited) shall be deemed proposed amendments. Amendments may be proposed by the Village Board, the Administrator, the Board of Appeals, or any party in interest.

(A) FILING. Every proposal to amend this Zoning Code shall be filed with the Administrator on a prescribed form. (Every amendment proposal shall also be filed with the Soil and Water Conservation District as per 70 ILCS 405/22.02a). The Administrator shall promptly transmit said proposal, together with any comments or recommendation he/she may wish to make, to the Board of Appeals for a public hearing (See also Section 40-8-9, "Schedule of Fees").

(B) PUBLIC HEARING, NOTICE. The Board of Appeals shall hold a public hearing on every amendment proposal within forty-five (45) days after said proposal has been submitted to them. At the hearing any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, and place of the hearing and the nature of the proposed amendment shall be given not more than thirty (30) nor less than fifteen (15) days before the hearing:

- (1) By first class mail to all parties whose property abuts the proposed amendment; and
- (2) By publication in a newspaper of general circulation within this municipality.
- (3) The applicant shall bear the expense of mailing the indicated notice to all adjacent property owners by return receipt mail and submitting a proof of service back to the Administrator listing all parties whom the notice was sent and attaching the return receipt signed by someone at the addressee's address.

(C) ADVISORY REPORT, FINDINGS OF FACT. Within fifteen (15) days after the public hearing, the Board of Appeals shall submit their advisory report to the Village Board. The report shall state the Board of Appeals recommendations regarding adoption of the proposed amendment, and their reasons therefore. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the Board of Appeals shall include in their advisory report findings of fact concerning each of the following matters:

- (1) Use(s) and zoning of the property in questions;
- (2) Existing use(s) and zoning of other lots in the vicinity of the property in question;

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- (3) Suitability of the property in question for uses already permitted under existing regulations;
- (4) Suitability of the property in question for the proposed use; and
- (5) The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially zoned or last rezoned.

(D) ACTION BY VILLAGE BOARD. The Village Board shall act on every proposed amendment at their next regularly scheduled meeting following submission of the Board of Appeal's advisory report. Without further public hearing, the Village Board may pass any proposed amendment or may refer it back to the Board of Appeals for further consideration, by simple majority vote of all the members then holding office.

EXCEPTION: The favorable vote of at least two-thirds of all the members of the Village Board is required to pass an amendment to this Zoning Code when the proposed amendment is opposed, in writing, by the owners of twenty percent (20%) of the frontage proposed to be altered, or by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered. (65 ILCS 5/11-13-14).